



Justice Dhiresh Narayan Chowdhury (Retd)

Chairman
State Police Accountability Commission,
Assam, Ulubari
Guwahati- 781 007

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Dear Shri

I am presenting herewith our report on the fourth year of its working. Ours is one of the vibrant States which spearheaded in enacting the police Act repealing the Police Act of 1861. The State Legislature brought into existence the Commission with a design to ensure better policing in the State with added accountability. The Commission is yet to attain its expectation- “the petty done, –the undone vast”.

In course of discharging duties and functions often the Commission is required to make probe on the acts and omissions of the police personnel. We are the only Commission which is making all endeavours to carry out a thorough probe through its own investigating agency in the relevant matters. Complaints started trickling and now it is being increased day by day. To meet the challenge, we are in need of a full-fledged investigating agency to make the Commission useful and effective. More so, our investigating agency is more relevant since the situation is quite dismal so far our police investigations are concerned. On the ground level police investigations are not done in a professional fashion.

Needless to state that the State is suffering from inept crime investigation. People of the land are disappointed with the police inertia in the matters of investigation. Cases are piling up in the Police Stations for want of investigation and professionalism as well as for the dearth of manpower, with little or no progress in the area of investigation. Time has, therefore come for the State to separate the crime investigation from the law and order duties.

The recommendations of the Law Commission regarding investigation and law & order functions of the police are the need of the hour. Riberio Committee (2nd report, March, 1999, Padmanabhaia Committee, 2000) also emphasized for separation of the investigation from the law & order functions. We are also of the considered opinion that to infuse professionalism in the police it requires the State to separate the investigation and law & order function of the police. It is becoming the urgent need keeping in mind the recent happening in the country. An efficient and professional police force will only meet the expectation of the Government and the governed, despite the constraints.

Immediate steps need to be taken to give effect to Chapter VI of the Assam Police Act, 2007. It is also high time for giving effect to Section 84 of the Act. If it is not feasible to establish District Accountability Authority in each police district, the State Government should at least start with a group of districts in a police range. To begin with, a District Accountability Authority may be set up for Cachar, Hailakandi and Karimganj districts making headquarter at Silchar in the Southern Police Range, Dhemaji, Lakhimpur and Sonitpur districts making Sonitpur as Headquarter in the Northern Police Range and for Dibrugarh, Tinsukia and Sivasagar districts making headquarter at Dibrugarh. Such steps, if undertaken will go a long way in reaching people of the State for bringing about accountability in a very important segment of the society.

Thanking you,

With regards,

Yours sincerely,

Sd/-

(D.N. Chowdhury)

Shri Tarun Gogoi
Chief Minister, Assam,
Dispur,
GUWAHATI- 781 006

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ANNUAL REPORT 2011

Introduction: - The Assam Police Accountability Commission is in the fourth year of its functioning since 2008. The performance of the Commission during its maiden years reflects the vision of much needed police reforms and the long cherished vision of the enactment of the new Police Act, 2007 with a mission envisioned to transform the police “as an efficient, effective, people-friendly and responsive agency “from the colonial mindset of the British Rule as an agent of the ruling clique and having redefined in terms of the people police in a democratic environment. All the complaints numbering 211 registered by the Commission till the end of the year 2011 since January 2008 for examination, in contrast have betrayed that the police are yet to set itself free from the colonial mindset without let up of ruler’s police image. The striking observations from the complaints are pointer to inaction, unfair and partisan responses to the accusations of the people against violation of law by police. These may however, sound insensitive and minor aberrations but are catastrophic in nature when such minor things spoil the sanctity of, law.

It is high time to trace the root of the causes ridiculing the rule of law in addressing the public complaints by easily understandable and speaking manuals/guidelines exploring reasonable scope in the fact finding, fair and lawful response by the police. One of the root causes underlying the concoction, manipulation and mutilation in the response system is corruption. To pre-empt/insulate police from the extraneous considerations, with manifestation in corrupt practices, a balance need to be stricken between their services to the communities with commensurate compensation and welfare measures and the accountability to their assets and financial liability in select cases beyond redemption.

The Assam Police Accountability Commission postulates streamlining the existing mechanism and addition of technological aides making police functional, transparent and result oriented, keeping in view the growing need to neutralise the threats from the cyber crime as an offshoot of the Information Technology boom. The computerisation of police is the biggest challenge to-day and the Commission sincerely

hopes that the same shall be achieved early. Computerisation would avoid delay, ease shortages of human resources and police interface and examination of records in the traditional manner in police accountability as dealt with by the Commission. The first information report, Police Station diary also called general diary, investigative action would be available at the real time rendering accountability in many ways a self contained measure in itself.

The annual report 2011 has been prepared in accordance with the provisions of the State Police Act, 2007 with its mission mode.

2. **Composition of the Commission- its power and function**

The Assam Police Accountability Commission is chaired by – Justice Shri Dhiresb Narayan Chowdhury, a former Judge of the Gauhati High Court with Members Shri Dharendra Nath Saikia IAS (Retd), Smti. Minati Choudhury, a member of the Civil Society and Shri Sheo Prasad. Ram, IPS (Retd). Mandate of the Commission is to ensure accountability of police as the additional mechanism in addition to the already existing mechanisms, functions, duties and responsibilities of the departmental authorities as detailed in the Chapter VIII of the Police Act, 2007 by making “enquiry into public complaints supported by sworn statement against the police personnel for serious misconduct and perform such other function as stipulated in the chapter.”

Serious misconduct means any act or omission of a police officer that leads to or amounts to: (a) death in Police Custody

(b) grievous hurt

© molestation, rape or attempt to commit rape; or

(d) arrest or detention without due process of law;

(e) forceful deprivation of a person of his rightful ownership or possession of

- property;
- (f) blackmailing or extortion;
- (g) non-registration of First Information Report and any other case referred to it by the Govt. or the DGP of the State subject to the nature of such cases meriting for independent enquiry.

Investigation Agency and Sectt. of the Commission:-

Shri R.K. Bania IPS (Retd), former DIGP has been heading the Investigative Agency of the Commission being assisted by two other retired police officers of the rank of Addl. S.P/ DSP on contractual basis from time to time. The approved strength of the agency is one S.P, one Dy. S.P and one Inspector of Police. Approved strength and the present position of the Agency are not adequate to handle the increasing workload of the Commission considering the nature of the investigation as required in the complaints.

A retired officer of the rank of Joint Secretary of Assam Secretariat Service was the Secretary of the Commission being assisted by retired ministerial officers (4) and other staff (4) engaged on contractual basis. One Sr. Asstt. and one Jr. Asstt. are attached from the police Department from the ministerial strength of the Commission's Secretariat.

3. **Accommodation**

The office of the Commission during the period of report was housed in the rented second floor building of the House Fed Complex, Guwahati, Beltola, Last Gate. The accommodation has to be shifted to a location at Ulubari due to number of constraints. The office of the Commission, a permanent oversight body needs its own accommodation chiefly with facilities for meeting, discourses/ conference/record and library room, computer room, waiting room for outstation officers, vehicle parking etc.

4. **Scope and extent of the Annual Report:-**

- The report to contain:
- (a) the number and type of cases of serious misconduct enquired into it;
 - (b) the number and type of cases of misconduct referred to it by the complainant upon being dissatisfied by the departmental inquiry into his complaint ;
 - (c) the number and type of cases including those referred to it in (b) above in which advice or direction was issued by it to the police for further action;
 - (d) the number of complaints received by the District Accountability Authorities and the manner in which they were dealt with;
 - (e) the identifiable patterns of misconduct on the part of police personnel in the state; and
 - (f) recommendation on measures to enhance police accountability.

5. **Number of cases registered**

Sixty six (66) complaints were received and registered by the Commission during 2011. Fifty one (51) cases were pending disposal of the previous year and the total number of cases have accounted for 117 cases to be dealt with by the Commission during the year of report. Of the total 117 cases, 44 cases have been disposed off during the year with 77 cases at different stages of progress under examination and enquiry. One case each was referred to the Commission by the Government and the office of the Lokayukta during the year.

One of the reasons of low disposal is the structural deficiency in equipping the Commission's own investigative agency with requisite manpower and transport facilities. Lack of suitable office accommodation comes next to the staff.

A tabular statement of cases

	<u>No. of cases</u>	<u>Disposed</u>	<u>Pending/ under examination</u>
(a) Registered	:66	17	49
(b) Spilled over from			
2008	: 8	4	4
2009	: 6	3	3
2010	37	20	17
<hr/>			
Total	117	44	73

5.1. Illustrative cases: Some of the cases registered during the year 2011 are discussed briefly with a view to illustrating the nature/type of complaints received and examined by the Commission during the year under reference.

5.1.1. Case No. 01/2011

A complaint on receipt from the Dy. Secretary, Political Department Govt. of Assam to the effect that the Town Sub Inspector of Nalbari P.S, S.I Maloy Acharjee has confined Shri Ratneswar Das and Bhagwan Talukdar of Gopal Bazar at Nalbari P.S and extorted Rs. 30,000.00 from the wife of Shri Ratneswar Das for release of Ratneswar Das and Bhagwan Talukdar.

The Commission was apprised by the District Police that the misconduct of the sub-Inspector of Police was duly probed by the District Police and awarded major punishment of stopping two increments with cumulative effect to the S.I Maloy Acharjee.

The Commission on examination of the action by the District Police finds it appropriate. The complaint has been disposed of with direction to intimate action take report to the Commission.

5.1.2. Case No. 05/2011

Complaint received from Dr. Ranjana Chetri, M &HO of Second ASRFBn, Koragaon , Karbi-Anglong District to the effect that Dr. P.R. Das, IPS, IGP Civil Defence and Home Guard tried to outrage her modesty while she was called up to the Bn. Guest House on 03/02/2011 by the IGP and outraged her modesty in the pretext of receiving medical help from her for sickness of having high B.P by the Senior Police Officer.

The Commission having received the complaint examined police reports called for from the District Police, Home Guard and Civil Defence and the police HQ as well. Further reports from the Police Department regarding investigation of a criminal case registered at Khatkhati P.S vide No. 09/11 U/S.353 IPC against the IGP was sought for. The said report has not been received during the year.

However, the Commission examined the complaint on the piecemeal reports from the Police Department and issued observations and direction.

5.1.3. Case No. 06/11

Allegation received from Shri Dwijendrs Nath Talukdar of Sivasakti Path, Lokhra, Guwahati to the effect that Shri Jitendra Kumar Doley, S.P, Border and S.I Jugal Kishor Kalita of Gorchuk O.P – illegally demolished boundary wall, Latrine etc of the complainant at Gorchuk village on 5.2.2011 and arrested illegally Smti Konica Talukdar and Smti. Krishna Medhi forwarding them to the judicial custody instead.

Commission is pursuing the complaint.

5.1.4. Case No. 10/2011

A complaint as received from Shri Amarendra Kr. Das, Professor and Head of the Department, Design and Centre of Mass Communication, Indian Institute of Technology, Guwahati to the effect that S.I Bhaskar Jyoti Nath of Paltanbazar P.S of Guwahati City made attempt to illegally detain him and thereby harassed the complainant having called him to the P.S in the first week of March, 2011, besides calling his father-in-law, an elderly retired army personnel for an enquiry about the complainant on matters seemingly on passport verification pending in the P.S beyond the valid period for enquiry. The allegation goes that passport enquiry is merely a pretext but S.I Nath was working at the behest of an interested quarter in a family issue by framing a false charge against the complainant in a case U/S 498 IPC and to detain him.

The Commission took cognizance of the complaint. Examined in length and observed that the stipulated time of six weeks expired for the passport renewal verification on 23/8/2010 and the alleged harassment by the Sub-Inspector B.J. Nath holds water and the complainant's version trustworthy. The superior officers namely the O.C, Divisional Dy. S.P have failed to guide the S.I who is new recruit and to take on the sensitive police work like verification of passport with civility and without invading the personal liberty, dignity of an individual.

The passport verification is a serious business and it is to be taken up with utmost caution keeping in mind personal liberty of a citizen vis-a-vis national security. Time has come for the concerned authority to take note of the situation and review the existing procedure in befitting manner and arrange appropriate guidelines to the police in such matter keeping in mind the liberty and dignity of the citizen. It is ridiculous that a police officer takes plea of an enquiry on passport verification which expired before a considerable time in laying trap to apprehend a citizen holding an identity of repute in the locality and in his professional area.

5.1.5. Case No. 12/2011

A complaint was received by the Commission filed by Shri Harinarayan Pathak, a resident of Padumpukhuri, Uzanbazar stating

unlawful activities with criminal intention by his neighbour in his plot of land. On 09/4/2011 an FIR was lodged at the Chandmari P.S at 11:30 A.M which the O.C refused to register.

Hence the Commission registered SPAC Case No. 12/2011 against O.C Chandmari P.S for non-registration of complaint and called for report from the SSP, City. Having examined the report and relevant records and the officer concerned, the Commission was of the opinion that O.C concerned while discharging his duty flawed in by not registering the FIR, which amounted to serious misconduct. Non-registration of FIR amounted to dereliction of duty. It now appears that the FIR has been registered at the intervention of the Commission. All things considered the Commission considered it appropriate to refrain from making any direction initiating any disciplinary measure against officer concerned.

5.1.6. Case No. 13/2011

The Commission received a complaint petition from Shri Himendra Baruah of Dighali Majgaon, Tengani, P.S Barpathar Dist.-Golaghat on 13/4/2011 regarding death of his son Shri Anjan Baruah on 25/02/2011 due to falsely implicating his son in a case and physical and mental torture committed by SI Ranjit Moran, O.C Barpathar P.S. leading to his suicidal death

On receipt of the complaint, the Commission registered this case and issued notice to the Superintendent of Police, Golaghat to submit a detailed report on the complaint. The S.P, Golaghat submitted detailed report in response to the notice from the Commission. Besides the report and other relevant records, the Commission also examined the S.P, Golaghat and the alleged officer. The report revealed that the Barpathar P.S registered a UD Case No. 01/11 on 26/2/2011 regarding suicide of deceased Anjan Baruah by poisoning.

The report received from S.P also disclosed that on 27/2/011 at 12:45 A.M the father of deceased Himendra Baruah of Dighali Majgaon, Barpathar P.S lodged an ejarah to the effect that a case No. 60/10 U/S 121/121(A)/122 IPC was registered against his son Anjan Baruah. He

was arrested in the case and forwarded to the court. After his son came out on bail S.I R. Moran, the then O.C Barpathar P.S harassed his son both physically & mentally. His son was called to the police station, threatened and pressurised to give statement in electronic News Channel of his involvement with the maoist and some other organisations. This fact was disclosed to his family members & friends and as a result his son became depressed mentally. The report further added that O.C Barpathar P.S was moving around his house on 25/2/2011 and as a result of which his son became frightened. The O.C also gave statement before the T.V channel on the same date (25/2/2011) against his son for his involvement with Maoist. At last his son found no other alternative, than to commit suicide, as a result of harassment from the S.I.

On receipt of the ejahar, Barpathar P.S Case No. 12/2011 U/S 306 IPC was registered against S.I R.Moran on 27/2/2011 at 12:45 A.M and investigated. In a subsequent report the Commission has been apprised that the case was returned in FR Vide FR No. 20/11 as the case is a mistaken fact.

The complaint is pending disposal by the Commission for clarifications on certain issues.

5.1.7. Case No. 14/2011

The matter arose out of a complaint lodged by Smti. Protima Singh of Cachar district against S.I K.K Basumatary alleging partiality in a case of assault to her husband by assailants working in Central Police Organisation.

Having registered the Case No. 14/2011, the Commission issued notice to the S.P, Cachar to furnish a report. In course of time, the S.P submitted report. Besides the report and other relevant records examined, the Commission also heard the S.P, Cachar, O.C Silchar P.S as well as S.I. K.K. Basumatary.

It appears that the district police authority took action in the matter only after intervention of the Commission. The Commission expects that the function of the police is to be people-friendly helping the victim of

assaults etc. with utmost rapidity considering injuries sustained by the husband of the complainant. Commission hope and trust that things will be taken up with utmost care by the district police, more particularly the Superintendent of Police to earn public confidence and show their allegiance to the police accountability. With the observation, the proceeding stands closed.

5.1.8. Case No. 15/2011

The Commission received a complaint petition from Ms. Anjali Daimari, President, Boro Women Justice Forum, Maligaon, Guwahati and others against dereliction of duty against police officers in the investigation of a gang rape case. On 20th April, 2011 at 07:30 P.M a group of six personnel of 15th Dogra Regiment (Security Personnel) in civvies entered the house of Sri Ratneswar Goyary of the village Tharaibari under Kokrajhar Police Station forcefully and gang-raped his wife Mrs. Manek Goyary, aged 38 years while asleep alone. Though the matter was informed by her husband immediately to the O/C Mr. Ananta Das of Kokrajhar P.S and Addl. Supdt. of Police Mr. Hemanta Kr. Das, the police neither turned up to take stock of the situation nor registered the case that night. Complainant alleged that even the Superintendent of Police, Kokrajhar district Mr. P.K. Dutta was trying to shield the culprits.

On receipt of the complaint, the Commission registered SPAC Case No./15/2011 and issued notice to the Superintendent of Police, Kokrajhar to submit a detailed report into the incident. Accordingly, Superintendent of Police, Kokrajhar submitted detailed report in response to the notice from the Commission. The Commission also heard S.P, Kokrajhar, Shri P.K. Dutta in person besides the report and other relevant records examined. The SP denied the veracity of complaint and his report omitted the reported information to the OC, Kokrajhar on the incident. The SP however, confirmed telephonic talk after his appearance before the Commission but denied to have informed by the husband of the rape victim over phone of the incident of rape but sought for security from the OC and the Addl. SP.

The Commission made several efforts therefore, to secure digital evidence from the Telecom Regulatory Authority of India by deciphering the mobile phone conversations between the husband of the rape victim and the OC and the Addl. SP and directed the SP to arrange it. The SP in turn referred the matter to the Addl. DGP, Spl. Operation Unit of Assam Police, Guwahati. But the effort failed to secure the desired evidence which could have been possible had Police of the District taken timely action as the Telecom Authority confirmed. The complaint is pending disposal for examination of the husband of the victim with the digital approach failed.

5.1.9. Case No. 21/2011

The Commission received a complaint from Sri Diganta Chowdhury of 4th Byelane, Dr. Bani Kanta Kakati Road, Ulubari, Guwahati to the effect that he lodged a FIR on 30/4/2011 at Paltanbazar P.S against one Mr. Arnab Sarkar, an agent of Unipay 2U. Com. regarding fraudulent withdrawal and transfer of USD 900(Rupees forty five thousand) only from his online trading account. But the said accused Sri Arnab Sarkar with the help and connivance of O/C and 2nd officer Paltanbazar P.S lodged a FIR at Dispur P.S to the effect that the complainant had criminally trespassed and intimidated him in his work place. The Paltanbazar Police has resorted to blackmailing him with a clear design to desist him from proceeding with the FIR that he had lodged against the accused Mr. Arnab Sarkar in a cyber crime of stealing his money from bank account by instigating the accused to file a criminal case against complainant Diganta Choudhury so as to desist him pursuing his case.

On receipt of the complaint a case was registered and notice issued to the SSP, City, Guwahati for furnishing a detailed report into the allegations brought against the police.

The SSP, City submitted his reports indicating that the investigation of Case No. 335/2011 U/S 420 IPC was pending for seizure of records and the laptop but the accused was arrested. Salient points of the report also indicate that the accused was arrested following the complaint registered at the Accountability Commission

and the vital evidences as could have been collected by the investigating officer by seizing both electronic and paper records relating to the offence U/S 379/420 IPC. However, the report of the SSP is silent as to the alleged conspiracy hatched by the O/C and 2nd Officer Paltanbazar in framing up criminal case against the complainant of this SPAC case following his FIR lodged at Paltanbazar P.S. apparently to gag up a complainant and deprive him of his material relief.

However, the issue is under examination in view of no progress in the case No. 35/2011 of Paltanbazar PS.

5.1.10. Case No. 22/2011

A complaint was received by the Commission through Secretary-Cum-Registrar, office of the Lokayukta, Assam which forwarded the original petition dtd. 03/06/2011 of Shri Manoj Deka, PWD Colony, Dibrugarh for necessary action from their end.

The complainant alleged that while his son Sri Mantu Deka went to the Dibrugarh P.S on 18/05/2011 at around 10:00 P.M for submission of FIR about blackmailing him by Miss Monisha Mahata and her family, S.I B.K. Sarma & S.K. Debnath who were in the P.S refused to accept the FIR. Later on OC, Dibrugarh PS caused an enquiry and submitted a Non-FIR case.

The Commission registered this case against O/C Dibrugarh P.S for non-registration of complaint and called for a report from the S.P, Dibrugarh. The Commission also examined the S.P, Dibrugarh besides the report and other relevant records submitted in connection with the case and observed that the OC, Dibrugarh PS had preferred an enquiry to the investigation in violation of the provisions of law u/s154/155 Cr.PC and the SP Dibrugarh resorted to minor punishment to one SI alleged in a case of a serious misconduct calling for criminal proceeding..

The compliant is under further examination of relevant records.

5.1.11. Case No. 23/2011

A complaint was received by the Commission on 13/6/2011 from one Sri Arun Deka of Sarumatoria, P.S –Dispur, Guwahati alleging

police inaction to arrest the culprit in a case of robbery, criminal trespass, injury and harassment upon them by the police officials of Dispur P.S.

Accordingly a case was registered and called for a detailed report from the SSP, City, Guwahati. As the police fails to furnish complete report as called for by the Commission and for the delay, the Commission directed the SSP, City, Guwahati to pull up the concerned O/C and I/O of the case and to submit the report without further delay for perusal of the Commission. The SSP's report is a piecemeal account of the victim. The complainant being promptly implicated in a counter case filed by the suspects of the crime u/s 392 IPC and arrested and C.S. submitted without taking any investigative action in the case No. 1107/11 u/s 448/325/379/392 IPC with the message that the Police can drag on investigation of case filed by a victim of criminal action with indulgence to the criminals and embroil the victim in counter case. The case is under examination.

5.1.12 Case No. 24/2011

A complaint received from Smti. Romola Deka, W/O Lt. Ramesh Deka of Khanapara, Farm Gate, P.S- Dispur, Guwahati stating that on the basis of FIR lodged at Noonmati P.S by one Jepuline Baruah, her son-in-law namely Shri Ditu Saikia Noonmati P.S registered a case No. 214/2011 and thereafter threatening/harassing her son-in-law to surrender before the police. Police picked up his father Shri Rama Saikia aged about 65 yrs along with maid Mamoni Hazarika aged 18 Yrs and kept in police custody of Noonmati P.S without they being implicated in the case and reason thereof.

On receipt of the complaint, the Commission registered a case and directed the SSP, City, Guwahati to submit a detailed report within 24 (twenty four) hrs.

The report of the SSP, City reveals that Noonmati P.S staff brought Shri Roma Saikia, father and the employees of the accused in a case to the police station for interrogation but the relevant police records have

not been furnished for examination of veracity of the report and police action apparently amounts to illegal detention and of serious misconduct.

The SPAC Case is pending for further action.

5.1.13. Case No. 25/2011

Sri Hangsa Nath Das, S/O Lt. Ghanashyam Das of Doljan Path, Suraj Nagar, Sixmile, P.S- Dispur, Guwahati-22 lodged a complaint before the Commission that while he and other members of a marriage party went to the house of the bride, the bus by mistake entered Sarupeta Road and dashed a motor bike causing no damage while reversing the bus. At this, a group of boys numbering 4/5 entered into the bus and started assaulting the driver and other occupants of the bus including both male and female. The bus taken to the Howly O.P to report the matter before I/C Howly O.P. But in presence of I/C Howly and staff of the Out Post the hooligans who followed the bus had beaten up innocent people inside the police Out-Post. The staff of the Police post miserably failed to protect the occupant of the bus from the assaults by the rowdies. Even girls/ladies were outraged of their modesty. The complainant therefore requested the Commission to cause an enquiry as to how the group of criminal dared to enter into the police Out Post and inside the room of I/C of the Out Post molested the young girls, assaulted innocent people causing grievous hurt and to take necessary action against the erring police officers.

The Commission registered a case NO. 25/2011 and called for a report from S.P, Barpeta.

On receipt of the complaint from the Commission S.P, Barpeta enquired into the matter through Addl. S.P (HQ) Barpeta and submitted his report.

The complaint has been taken up for enquiry by its own investigation agency of the Commission in view of the gravity of the misconduct of police which escaped the scrutiny of the Sr. Police Officer of the District.

5.1.14. Case No. 26/2011

The matter emerged from a complaint received from one Shri Ananta Smith of Sivassagar town against the police harassment/assault and restraint by S.I Ajamil Bora of Sivasagar police HQ on 08/07/2011 while the complainant and his old mother went to the State Bank of India, Sivasagar Town for receiving family pension. The complainant has also complained of not registering his complaint at the first instance.

The Commission took cognizance of the complaint and called for a detailed report from the Superintendent of Police, Sivasagar. Having examined the report and relevant records, the Commission is of the opinion that the S.P's report is incoherent, incomplete, inept, if not misleading, law became a casualty in the hands of the concerned police personnel. The Commission recommended for Departmental Action against the O.C, Sivasagar for his lapses in making entries in the GDE relating to the incident having visited the place occurrence making no case against any of the parties. But later on case and counter case were registered and the complainant Ananta Smith was victimised and investigative police became partisan taking side with the alleged police officer Ajamil Bora.

5.1.15. Case No. 29/2011

A complaint dated 18/7/2011 submitted by Shri Dilip Kr. Dutta of Namtidol Bailung Gaon, P.S- Halwating, Dist.- Sivasagar received by this Commission against the O/C for dereliction of duty and not registering the FIR.

A detailed report from the S.P concerned has been received. The Commission also summoned the S.P, Sivasagar and heard him in person. Also examined the related police records.

On perusal of the records including statement of the S.P, the Commission considers it appropriate to direct the S.P to initiate departmental proceedings against the concerned O/C for his failure to register the FIR as required under the law. The Commission also expects from all concerned to take appropriate measure to converse the S.P

concerned with the law of the land, more particularly the provisions of the Assam Police Act, 2007 and procedures in order to cater to the needs of people impartially and with unbiased administration.

5.1.16. Case No. 33/2011

A complaint was received by the Commission filed by Sri Biswa Baruah, President Gaurisagar Block Congress committee, Sivasagar against S.I Apurba Kr. Bora, O/C Gaurisagar P.S of illegal physical assault on Sri Dibjyoti Das, Sri Ranjit Nath and Babul Hussain on 31st March, 2011. Hence the Commission registered the case and called for report from the concerned S.P.

The Commission examined the report of concerned S.P as well as report submitted by the DIG(ER) unerringly pointed out that the O/C concerned fell into error in not adhering to the procedure prescribed by law. After going through the reports, the Commission was of the opinion that misconduct on the part of the O/C is discerning.

The Commission expects that the police authority will take appropriate measure instructing the Thana level police officers for avoiding such lapses. Likewise middle level supervisory officers are also to be instructed to monitor and enforce the guidelines from time to time. With this proceeding stands closed.

5.1.17. Case No. :- 34/2011 (Suo-Motu Case)

The Commission admitted and registered a Suo-Motu Case No. SPAC/C/34/2011 on a News Item published in the local daily "Pratidin" dtd. 17/06/2011 under caption "Bon Bivagat Durnityr Namat Prahasan BIEO Sari Bisayar Borakat Lunthan"

The Commission directed the Director General of Police, Assam to furnish a factual report as to the alleged involvement of the Dy. Supdt. of Police of BIEO in the extortion spree in the discharging official duties along with other officials. The Commission is examining the report submitted by the DGP, Assam. The report does not disclose serious misconduct u/s 78 of the Police Act, 2007 and hence dropped.

5.1.18. Case No. 38/2011

The Commission registered a Suo-Motu case No. 38/2011 on the news item published in local daily “the Assam Tribune” dtd. 14/08/2011. The brief of the case is that Smti.Joya Bora, mother of Guddu Bora, a vegetable vendor of Titabor who lived in a rented house near ASTC office Titabor was assaulted on 11/08/2011 by Mohendra, Rupam, Deoukan, Raktim, Sumanta and Utpal. They (mother and son) went to Titabar P.S just after the incident but ASI Chandra Goswami refused to register their complaint, thereafter Guddu beat up Deokan and Raktim who lodged an FIR at Titabor P.S against Guddu. The Police went in search of Guddu to Titabor market. On seeing the police Guddu tried to flee. Police chased him. Guddu fell down in a pond behind the ASTC office and died. In spite of noticing him drowning, police did not make any attempt to rescue him. The Commission called for a detailed report from the S.P, Jorhat on the News Item published under the caption “2 cops suspended over youth’s death in Titabor” The S.P, Jorhat submitted her report accordingly. Having examined the report, the Commission issued summons to the S.P, Jorhat, S.I Prabhat Phukan, O/C Titabor P.S, S.I Chandan Goswami for their appearance before the Commission and heard them in person.

The Commission also engaged its own investigation agency to investigate the alleged conduct of the police and the circumstances leading to the death of Guddu Bora.

Sr. Investigator of the Commission visited Titabor and locally conducted an enquiry. The distance between the weekly market where deceased Guddu Bora was sighted by police and the pond in which he drowned is seventy meters. The police contingent comprising of S.I Chandan Goswami, AB Constable Rabin Gogoi, Dwipen Gogoi and Home Guard Baikuntha Gogoi chased Guddu who ran out from the weekly market having seen police. Guddu was playing cards with few other boys who did also flee helter-skelter.

Guddu ran towards the Circle Office and having crossed the boundary wall of the Circle office and the weekly market made his way

towards the pond. He then jumped in the water body of the pond and drowned to death. The Police contingent also arrived at the bank of the pond but except informing the O/C over phone by S.I Chandan Goswami could not rescue Guddu Bora. His dead body was later on fished out by personnel of the State Fire Service Station at Titabor on request by O/C Titabor P.S.

O/C Titabor PS registered a Case No. 79/11 U/S 376 (G)/304(A) IPC on the FIR submitted by Smti Joya Bora against S.I Chandan Goswami and six others named in the FIR and the O/C himself investigated.

The Commission is examining the case and pending for clarifications on certain points. The ground advanced by police to chase deceased Guddu for his examination as witness in the case filed by Smti. Bora, mother of Guddu and registration of case No. 79/11 clubbing accused in two sets of incidents.

5.1.19. Case No. 40/2011

Smti Deppamoni Gogoi, W/O Sri Prabin Gogoi filed a complaint before the Commission that her husband who is also a Havildar-Driver of 3rd APTFBn was tortured physically & mentally by Sri Mukul Saikia, Addl. S.P, Tinsukia and affecting service record of her husband implicating in a case having connection with the United Liberation Front of Assam, an outlawed outfit.

The Commission registered a case and called for a report from the S.P, Tinsukia. The Commission also called for a report from the Joint Director of Health Services, Tinsukia to furnish medical examination report of Havilder Prabin Gogoi. Both the reports have been received by the Commission.

The Commission has also heard the S.P, Tinsukia and the Supdt. of Civil Hospital, Tinsukia in persons.

Dr. S. Haque, Supdt. of Tinsukia Civil Hospital deposed before the Commission in connection with medical intervention to the alleged

injury of Hav. Prabin Gogoi at Digboi on 06/08/2011 and subsequent hospitalisation at Tinsukia Civil Hospital. The M.O who could not apprise the Commission as to the nature and circumstances leading to the initial treatment to Hav. Prabin Gogoi assured the Commission to send the medical examination report of Digboi CHC. Accordingly medical examination report of Hv. Prabin Gogoi of Digboi P.S has been received. Joint Director of Health Services of Tinsukia which indicates the date & time of examination of the injured and also the description of the wounds. The wounds includes hematoma and also bleeding from the hematoma and thereafter on 07/08/2011 at 3:15 A.M referred to Tinsukia Civil Hospital.

Earlier the report received from S.P, Tinsukia enclosing a medical report with the impression that the patient had no mark of injuries as was noticed by the Medical Officer of the casualty of Tinsukia Civil Hospital at the time of admission as well as in the radiological and ultra sonographical report, he was basically treated for the hepatic diseases (liver diseases) in the ward for the said period. From 07/08/2011 to 20/08/2011. It appears that the medical reports contradict each other so far as the circumstances and injuries that have led to the medical intervention is concerned.

The case is pending for examination of alleged Sr. police officer Sri Mukul Saikia the then Addl. S.P, Tinsukia.

5.1.20. Case No. 44/2011

Smti Kalpana Sinha, W/O Sri Kamaleswar Sinha of village Lakhibazar Road P.S Karimganj, Dist.- Karimganj lodged a complaint before the Commission mentioning that since the morning hours of 28/03/2011 her minor daughter Smti Ratneswari Sinha was found untraced. The daughter of the complainant along with her friend Smti Ister Charai together went to attend tuition class run by a teacher Sri Uttam Das. As her daughter did not come home in usual time, complainant suspected that her minor daughter was kidnapped by the tuition teacher Sri Uttam Das.

The complainant alleged that she went to Karimganj P.S to lodge FIR on 29/03/2011. TSI Angshu Rajkumar forced her to submit a missing

report instead of filing an FIR of Kidnapping her daughter by Uttam Das to which the complainant complied with. It is also alleged that TSI Angshu Rajkunwar demanded Rs. 25,000/- (Rupees twenty five thousand) for recovery of her daughter and subsequently the complainant paid Rs. 15,000/- (Rupees fifteen thousand) on the same day.

The Commission called for a report from the S.P, Karimganj and also forwarded the complaint to the DGP, Assam for early disposal. The report received from the SP, Karimganj being examined necessitated further examination of the alleged officer and the OC of Karimganj PS.

5.1.21. Case No. 47/2011

The case was registered by the Commission on unlawful activities with anti-social elements & harassment to the complainant by police. The complaint received from one Moinul Haque of Vill- Krishnapur P.S- Silchar/Arunachal Police Out Post against ASI B. Singh Chetri and constable Anowar Hussain Barbhuyan of Arunachal Police Out Post under Silchar Police Station alleging unlawful activities with anti social elements and harassing innocent peoples.

Commission called for a detailed report from the S.P, Cachar and accordingly S.P submitted his report for perusal of the Commission.

However the Commission not being satisfied with the report directed the S.P concerned to resubmit report on the certain points raised by the Commission for clarifications.

5.1.22. Case No. 48/2011

The Commission registered a case No. 48/2011 on a complaint received from one Sukurmoni Bhumij vill.- Telicherra, Behera of Katigora P.S, Dist.- Cachar stating that a written FIR lodged with I/C Behera Police Out-Post under Katigora Police Station against (six) accused persons who illegally trespassed into their house attempted to commit rape and murder. While she made hue and cry her husband rushed to save her. They assaulted her husband causing grievous injuries on his person and admitted in the Silchar Medical College and later on

shifted to Gauhati Medical College & Hospital as refereed by them for further treatment. As the Police fails to take proper action against the accused person she approached to the Commission with a prayer to enquire into the matter and to take appropriate action under law.

On receipt of the complaint the Commission issued notice to the S.P, Cachar to furnish a report and then to furnish the investigative details of the case which has been hurriedly returned in charge sheet and to clarify as to the circumstances under which the C.I of police was kept in dark and superseded.

The S.P, Cachar calls explanation from S.I Prabhat Saikia, O/C Katigorah P.S and S.I Ibrahim Khallilluah Kabir, I/C Behara O.P for minimising the gravity of the offence by submitting C.S U/S 325 IPC though as per law the case should have been charge-sheeted U/S 326 IP. The complaint is under examination.

5.1.23. Case No. 49/2011

Md. Nekibuddin Ahmed resident of Singhadowar Hahchara, P.S & Dist.- Sivasagar complained that his brother Md. Kutubuddin Ahmed who was working as a Security Guard under Gorilla Security Agency and posted under Indo Power Project Ltd. missing on 13/08/2011 and subsequently his dead body was found in the Dikhow river at Na-Katani village in his security attire. The complaint filed before the police to ascertain causes of death and to arrest the culprit but police fails to do so. Hence the complainant approached the Commission with a request for proper enquiry into the mysterious disappearance and circumstances leading to death of his brother.

The Commission registered a case and called for a report from S.P, Sivasagar. The Commission also summoned Addl. S.P, Sivasagar who is supervising the case and heard him in person.

The complaint is pending disposal for non receipt of police compliance report regarding clarification sought from the district police.

5.1.24. Case No. 50/2011

Commission received a complaint against O/C Gosala Police Station on his alleged role of illegal activities with land mafia Shri Gajen Kalita grabbing land from Shri Pradip Sarma & 30 others of Kalyan Nagar Maligaon, Guwahati with police connivance. It is stated in their complaint petition that in spite of FIR lodged, police is not taking action against accused for which they are freely moving in the areas creating panic, threatening actual land owners with an intention to grab the land with the help of the police officer.

On receiving the complaint, a case was registered and issued notice to the SSP, City, Guwahati to submit a detailed report. As per direction of the Commission, SSP, City submitted his report which has been examined by the Commission. The case is pending for further action.

5.1.25. Case No. 51/2011

The Commission registered case No. 51/2011 on receipt of a complaint from Smti Ranju Das, W/O Sri Dilip Ch. Das of Manipur, Oujaribori P.S & Dist. Morigaon against S.I- Debajit Mahanta, O/C Morigaon P.S for illegal detention and extortion of money from her husband. The complaint was forwarded to the S.P, Morigaon and asked to submit a detailed report into the matter. The S.P, Morigaon submitted his report. The report submitted by the S.P, Morigaon sent to the DGP, Assam to furnish a report on the complaint within 2(two) weeks for perusal of the Commission. The DGP, Assam forwarded the complaint to the Addl. DGP (CID), Assam to conduct enquiry into the complaint and to submit the findings at an early date. The Commission also summoned the Addl. DGP, (MPC), Assam to appear before the Commission on 07/03/2012. The DGP, Assam furnished the report as received from the Special Supdt. of Police CID, Assam for perusal of the Commission. The Commission also summoned Inspector G.K. Borah, CID, Ulubari, Guwahati in connection with the case and heard all the police officers in person.

The SPAC case is pending for local visit by the investigating agency of the Commission. It is a complaint of blackmail and extortion against SI, Debajit Mahanta, the then OC, Marigaon PS.

5.1.26. Case No. 52/2011

A complaint was received from a partner of M.S Bharali Kerosene Depot alleging blackmailing and extortion against Shri Himangshu Das, O/C Rangia P.S.

Commission registered a case No.- 52/2011 and called for report from the S.P, Kamrup (R). The S.P submitted his report along with the relevant documents. The Commission also summoned the S.P concerned and heard him in person. The materials on record indicated that the oil tanker was proceeding towards Bhutan from Guwahati with 6000 Ltrs. of diesel met with an accident at Bangalikuchi under Rangia P.S and capsized on NH-31 on 16/5/2011. The vehicle was seized by the Police and the seized vehicle was released on 30/9/2011 after completion of MVI Inspection. Apparently police action of seizure of the vehicle is wholly unauthorized. Seizure can be made only as per procedure prescribed by law. Seizure is a serious matter. The law insists that the seizure of any article has to be forthwith reported to the Magistrate having the jurisdiction. The O/C did not follow the procedure prescribed by law. His action wholly unauthorized. No case was also registered by the Police. All these amounted to serious misconduct of the O/C. After the case was taken by the Commission, District Police appeared to have taken some action. The steps taken by the S.P concerned was not proper when the matter was under examination of the Commission. That apart the action taken against the officer by giving warning does not have any impact. It was a case where at least departmental action ought to have been taken to ensure accountability on the officer concerned.

5.1.27. Case No. 54/2011

Shri Sanjay Krishna Khosla, S/O Shri Indra Mohan Khosla, G.S. Road, Christian Basti, Guwahati filed a complaint before the Commission against Shri Apurba Jibon Baruah, SSP, City, Ghy on alleged harassment meted out to him. The complainant states that on

15/05/2010 he was physically assaulted by his wife and he was constrained to lodge an FIR at Latasil P.S against her. However, the said FIR was not registered, instead, he was directed to go to the All Women Police Station. The complainant has reasons to believe that all this was done at the influence of the Shri A.J. Barooah who was then the Assistant Inspector General of Police (Admin), Assam.

On the other hand, an FIR lodged by his estranged wife Smti. Manisha Rajkumari in All Women P.S, Panbazar, a Case No.- 01/2011 was registered on 07/01/2011 and arrested him from his office. The complainant states that Shri Apurba Jibon Baruah, the then Asstt. Inspector General of Police prevailed upon the then SSP, City, Guwahati Shri Pradip Saloi to put him behind bar.

The complainant prays to admit the complaint, cause an enquiry in the matter and to take action against Sri Apurba Jibon Baruah presently posted as Sr. S.P, Guwahati as per law and justice.

On receipt of the complaint, the Commission registered Case No.- 54/2011 and forwarded the complaint petition to the DGP, Assam to furnish para wise comments along with his views on the matter urgently. The DGP, Assam informs the Commission that the matter has been initiated at CID vide enquiry No. CID-XI/Enquiry/12/6411, dtd. 03/12/2011 which is now on progress. The DGP, Assam furnished the para-wise comments as received from the Spl. Superintendent of Police, CID, Assam.

Report reveals that the allegation is purely family oriented and Shri A.J. Baruah, the then AIG is one of the close relatives of Smti. Manisha Rajkumari. There is no evidence for establishing the allegation against Shri A.J. Baruah in the case.

The Commission also summoned the then O/C Latasil P.S Inspector Shri Bhakti Ram Kakati now posted at C.I Morigaon for non-registration of the complaint. He has not turned up for his examination. The SPAC case is pending disposal therefore.

5.1.28. Case No. 56/2011

Sri Joy Mohan Das, S/O Sri Jaduram Das of vill.- Fakuagram P.S Ramkrishnanagar Dist.- Karimganj filed a complaint before the Commission stating that Sri Jibon Das and others killed his elder brother Gour Mohan Das on 05/07/2011. Though he lodged FIR against the culprits and to trace out the dead body of the deceased brother, police failed to trace out the dead body and the main culprits of the murder. He approached many times for recovery of the dead body but police always had the same lame excuse. Having no other alternative he approached the Commission to direct the Investigating officer S.I H.P Singha and O/C Silchar P.S to trace out the dead body of his brother.

On receipt of the complaint a case was registered No. 56/2011 and called for report from S.P Cachar. On perusal of the report received from the S.P concerned the Commission considered it appropriate to forward the complaint to the DGP, Assam for appropriate measure to enable it to trace out the missing person.

5.1.28. Case No. 57/2011

A complaint was received from one Sri Pranat Kr. Dey of Guwahati serving in the SBI Gitanagar Branch as service Manager alleged that Paltanbazar police officials harassing him in connection with Paltanbazar P.S Case No. 906/2011 for which complainant feeling disturbed and tension in mind and seeks Commission's help.

On receiving the complaint, the Commission registered a case accordingly and called for a detailed report from the SSP, City, Guwahati. The Commission also summoned the O/C Paltanbazar P.S and the complainant Shri Pranat Kr. Dey and recorded their statements. The case is under examination.

5.1.30. Case No.- 58/2011

A complaint filed by Sri Rupam Rajkhowa, Chief Executive Officer, Nagarik Samabai Bank Ltd, Guwahati before the Commission stating that the Bank authority lodged a complaint with Panbazar Police

Station on 04/06/2010 against one Manik Chandra Paul, a daily Collector for misappropriation of bank money. But the concerned police station did not take any action against the accused person nor informed the bank authority about the progress of the case. Therefore bank authority approached the Commission to issue appropriate direction to the Panbazar P.S to gear up to conclude investigation in matter with due promptitude.

A case was registered and Commission directed the SSP, City to furnish a detail report. The Commission also summoned O/C and S.I K. Nath, I/O of the case of Panbazar Police Station & recorded their statement.

The Commission is examining the report & recorded statement. The case is pending for further action.

5.1.31. Case No. 59/2011

A complaint case received by the Commission on 25/11/2011 filed by Shri Prasenjit Baruah of Kampur Higher Secondary School Road P.S Kampur, Nagaon district stating inhuman assault, forceful deprivation of possession of property and arrest without following the due process of law and refusal to receive the ejahar by Mr. Hari Charan Kalita, O/C Kampur Police Station.

Hence the Commission registered Case No. SPAC/C/59/2011 against O/C Kampur P.S for non-registration of complaint and called for report from the S.P Nagaon. Accordingly S.P, Nagaon submitted his reports along with relevant documents for kind perusal of the Commission.

The case is pending for further action.

5.1.32. Case No. 61/2011

Shri Sib Narayan Das, S/O Lt. Iswar Ch. Das of Vivekananda Road, West Sripuria P.S & Dist.- Tinsukia filed a complaint petition before the Commission stating that his old aged mother about 80 years possessed a plot of land at Tinsukia Town having a dwelling house and

family members residing there. A notice has been served upon his mother by the Union Bank of India, Tinsukia Branch that landed property held by her is mortgaged in favour of the Bank. On receipt of notice and after verification of records it is found that it was a forged one. Accordingly complainant having been compelled to file a complaint before the Ld. Chief Judicial Magistrate Tinsukia on 29/10/2010 and accordingly Ld. Court directed the O/C Tinsukia P.S to register a case and to submit FF after investigation by Tinsukia P.S. The Tinsukia Police registered a case No. 707/10 against Smti. Susmita Roy Sen and Sri Prasanta Sen and Manager/officials of the Union Bank of India, Tinsukia Branch.

As the complainant being not satisfied with the investigation of police approached the Commission to pass necessary direction to the Tinsukia police to take appropriate steps in the investigation to seize the original forged documents from the bank and to send the same to FSL for verification with that of his mother.

Commission registered a case and issued notice to the S.P, Tinsukia to furnish a report.

S.P, Tinsukia submitted his report stating that the related documents were seized and sent to the FSL, Kahilipara, Guwahati for expert opinion which was yet to be received. Later on the S.P, Tinsukia furnished copy of report of Fingerprint Expert opinion received from the special Superintendent of Police, CID, State Finger Print Bureau, Assam to the Commission.

5.1.33. Case No. 62/2011

A complaint was filed by Md. Eyakub Ali, S/O Lt. Rasman Ali of Natbama Hatigaon, Guwahati against O/C Chandmari P.S. Complaining that he had a plot of land at revenue village 2nd part under mouza Ulubari and developing the land for construction of a multistoried building there. Mr. Ojha along with a group land mafia trespassed his land and assaulted care taker and threatened to vacate the possession of land. The care taker lodged a complaint at the Chandmari P.S against the accused persons. But the O/C of Chandmari P.S has not taken any action against the

accused persons. The Officer-in-Charge of Chandmari P.S also threatened as to vacate the land immediately. Finding no alternative he approaches the Commission to take action against the O/C Chandmari P.S and the land grabbers.

On receipt of the complaint from the complainant, a case was registered vide No. 62/2011 and called for a report the SSP, City, Guwahati. On perusal of the report received along with connected records, it appears that on the same issue a writ petition is pending before the Hon'ble High Court. The matter is under examination by the Hon'ble High Court.

As the matter is under examination of Hon'ble High Court the Commission decided not to proceed further in the matter.

5.1.34. Case No. 63/2011

A complaint was submitted by Shri Saranga Shankar Kalita of Srinagar Bye Lane No.- 2, P.S- Dispur, Guwahati on 16/12/2011 stating that one Shri Manoj Kumar, son of Sri Prithivi Singh of village Bhora Colony P.S-Bilaspur, Gurgaon, Haryana in the name of providing suitable job had collected a sum of Rs. 12,20,000/- from nine applicants in favour of complainants centre viz "Oceanic Marine Academy" with a malafide intention of cheating and remained untraced thereafter. The complainant somehow managed to meet Sri Manoj Kumar in Kolkata and being assured by him to return the money on 13/12/11 at Guwahati. Complainant along with Monoj Kumar appeared before the O/C Dispur P.S stating the facts along with a Ejahar but the O.C of the P.S refused to receive any ejahar in this regard. As Sri Monoj Kumar failed to return the amount as per his assurance having no alternative again approached the O/C Dispur P.S to take action in this regard. At that time though Sri Monoj Kumar was present along with the complainant at Dispur P.S on 13/12/11 but Dipur P.S not taking any action and letting him free.

As the O/C arbitrarily denied to take any Ejahar, complainant approached the DSP, Dispur P.S and at last at the interference of DSP, Dispur Police Station registered a case vide Dispur P.S Case No. 2541/2011 under Section 406/420 IPC dtd. 14/12/2011. Hence the

complainant seeks justice from the Commission for delay on registration of FIR and arbitrary action of the police official.

On receipt of the complaint, Commission called for a detailed report from SSP, City, Guwahati and accordingly SSP submitted detailed reports in connection with Dispur P.S Case No. 2541/11 U/S 406/420 IPC.

The SPAC case is pending for want of clarifications from police as called for.

5.1.35. Case No. 64/2011

Sri Sanjeeb Baruah, S/O Sri Sadagar Baruah of Dhemaji Chariali P.S & Dist. Dhemaji businessman by profession and owner of M/S Baruah Auto Traders of Dhemaji filed a complaint before the Commission that he purchased 52 Nos. of motor bikes on 19/10/2011 for an amount of Rs. 24,50,000/- (Rupees twenty four lakhs fifty thousand) on payment made through the Assam Gramin Vikash Bank, Dhemaji Branch from M/S Broghers Enterprise, Naharlagun, Arunachal Pradesh. While unloading the said motor cycles at Baruah Auto Traders Show Room at Dhemaji, the police came and seized the motor cycles as stolen property. In spite of producing all the relevant documents the police arrested him, demanded money for releasing him and the motor cycles. When he refused to pay the money, police registered a case at Dhemaji P.S Case No. 306/11. Thereafter on many occasions without any reason Sri Niraj Alam Choudhury S.I of Dhemaji Police Station harassing him for payment of Rs. 50,000/- for the higher officer under instruction of the S.P, Dhemaji.

On receiving the complaint, the Commission registered a case No. 64/2011 and forwarded the complaint to the DGP, Assam to furnish a detailed report into the matter.

DGP, Assam has furnished a copy of full report as submitted by the Dy. Inspector General of Police (NR), Assam, Tezpur wherein, it is stated that a criminal case been registered against S.I (Probationary) Neeraj Alam Choudhury vide Dhemaji P.S Case No. 366/11. Shri

Mainuddin Ahmed, APS, SDPO, Jonai is investigating the case. Further, the S.P, Dhemaji has also supervised the case. In the meantime S.I (P) Neeraj Alam Choudhury has been placed under suspension and Departmental Proceeding vide DP No.- 01/2012 has been drawn up. As such both the criminal case and departmental proceeding have been initiated against S.I. (P) Neeraj Alam Choudhury and a report can only be submitted after finalising of the Final Form in the criminal case and completion of the departmental proceeding.

The case is however, under examination of the Commission.

5.1.36. Case No. 66/2011

One Shri Kanahiyalal Yadav, S/O Sri Ram Kawal Yadav of Sripuria Pathar, Raja Ali Road, P.S & dist.- Tinsukia made a complaint before the Commission that he lodged a written complaint at Tinsukis Police Station stating that one of his neighbours Sri Ram Girish Upadhaya along with his wife and sons entered into the land of the complainant and assaulted his wife and forcefully taken away some valuable goods and demanded a portion of complainant's land. But S.I Nirmal Handique of Tinsukia P.S without taking any action in the investigation against the accused person threatens the complainant with dire consequences. Complainant therefore approached the Commission for proper investigation of the incident and take action against S.I. Nirmal Handique of Tinsukia Police Station for adopting unfair means and threatening him with dire consequences.

The Commission registered a case on his complaint and called for a detailed report from the S.P, Tinsukia.

Disposal of cases registered by the Commission and disposed during 2011 with specific direction for taking departmental/criminal proceedings are indicated as follows:

6. Reference of cases of misconduct by complainant

There have been no cases of misconduct referred to the Commission by complainant having been not satisfied with the departmental enquiries consecutively for the fourth year of report. It may

be due to either ignorance of the people or oblivious of pursuing complaints made to the Police Department. Any conjecture on this issue is unwarranted. Awareness as to the making of complaints before the Departmental authority of police and the right of the complaint within the meaning of Section 88 of Assam Police Act, 2007 is lacking. The Government, the police department and the Commission in the public interest need to make awareness campaign and the public grievance redressal mechanism on police misconduct. This is one of the critical areas of mandate to the Commission to enhance police accountability once member of a public files a complaint to the police authority and has access to the departmental action, the departmental accountability sets in motion. Reference of such complaints to the Commission where the complainant is not satisfied with outcome would generate confidence of the public in the grievance redressal system as a stepping stone to police accountability. Hoardings, use of print and electronic media in this regard can be made use of besides mass communication programmes.

7.1. SPAC CASE NO.38/2010

Smt. Nilu Boro W/o R.K. Boro
-Vs-
SI Girin Sonowal, OC, Simaluguri PS

The complaint was disposed by the Commission's order dated 12.12.2011 communicating its findings to the Director General of Police and the State Government with necessary direction in terms of proviso 1 of Section 82 of the Assam Police Act, 2007. Concerned Police Officer was found guilty of blackmailing by manipulating police records. The Commission also found that the OC concerned committed dereliction of duties. The respondent on receipt of the notice asked for time for submission of the department's view. Despite time granted, no views were received from the Director General of Police. IGP (Logistics) however, vide his communication dated 27.02.2012.informed the Commission that the Superintendent of Police, Sivasagar has already been directed to initiate DP against SI Girin Sonowal vide letter No. SPAC/APHQRs/38/2010/265 dated 27.2.2012.

The Commission gave its anxious consideration and found no material to review its order passed on 12.12.11 thus made it absolute. Before concluding, the Commission would like to note that internal in-house mechanism is not keeping its pace as is normally required. It seems that after the order was passed the CID Department engaged their office to enquire into the matter. The Commission made enquiry of its own through its own agency. Under the scheme of the Act opportunities are given to the concerned authority to state their views. It does not however, permit to make an unwanted inroad and over see our enquiry. An invasive enquiry was made in the instant case on two days. One of the witnesses (the husband of the complainant) was interrogated in his work place and next day the complainant as well as her husband was interrogated in their residence. It may also be mentioned that the complainant and her husband were called on Mobile Phone more than once to go to the CID Headquarters for interrogation. These are not simply permissible. The method introduced is menacing, baleful and ominous. The Act provided right to make complaint against police misconduct. They should be given all opportunities to state, prove and establish their case freely and without fear or favour. If menacing nature of enquiry is conducted not only it infringes the right of the complainant but also have a chilling effect on the complaint. This is however, not the only instance that the Commission had found with the CID. Such sort of invasive enquiries runs counter to this scheme. The attention of the Police Headquarters was drawn earlier also. The Commission hopes and trusts that the Director General of Police will look into the matter personally and take effective measure so that such sort of thing does not recur. The proceeding thus stands closed.

The order of the Commission dated 12.12.2011 as well as this order be also communicated to the complainant.

7.2. SPAC CASE NO. 15/2010

*Shri Lakhi Raj Deka s/o Shri Harakanta Deka of
No. 3 B.G. Colony, Pandu, Guwahati*

Vs

OC, Jalukbari Police Station

Whether a person arrested under due procedure prescribed by law by the lawful authority and in the custody of lawful authority can be the subject matter of an offence u/s 365 of the IPC is the key question.

Facts - The complainant lodged a written FIR at Maligaon Outpost alleging inter alia that on 16.2.10 between 6-7 pm one Subhash Dev Nath and his brother-in-law namely Mohan Biswas along with 3 other accused trespassed into the land of the complainant located at Gotanagar, B.G. Colony, Maligaon and had broken the Torza wall (made of bamboo), posts, etc. and taken away the said articles by an Auto Van. The IC Maligaon OP forwarded the said FIR to OC, Jalukbari Police Station vide GD Entry No. 336 dated 16.2.10 for registering a case under the proper section of law. Jalukbari Police Station in turn registered a case Jalukbari PS Case No. 116/10 dated 17.2.10 under section 447/379/34 IPC and the case was endorsed to ASI Syed Islam Ali for taking up necessary steps.

In course of investigation, the IO visited the Place of Occurrence, recorded statements of witnesses on 18.2.10 in the evening. One of the accused namely Mohan Biswas s/o Jagadish Biswas of village Balabari, PS Tamulpur, Dist- Baska was arrested as alleged by the complainant of the case. Since he was the main accused in the above case, the aforesaid Mohan Biswas was arrested by police and forwarded to the Court on 19.2.10. Interestingly on 19.2.10 one Esha Biswas of Pragjyotish Nagar lodged an FIR addressed to I/C Gosala Outpost which was forwarded on 18.2.10 by the Additional Superintendent of Police (Security) City endorsing “ I/C, Maligaon OP for taking lawful action”. On receipt of the above FIR by I/C Maligaon OP vide GDE No. 393 dated 19.2.10 forwarded the same to the Officer-in-Charge, Jalukbari PS for registration of a case. The I/C, Jalukbari PS registered a case vide No. 125/10 u/s 365 IPC and endorsed the case to ASI Syed Islam Ali for taking necessary steps. In the FIR it was complained that on 18.2.10 at about 2.00 pm the younger brother of Esha Biswas namely Mohan Biswas had been abducted by accused Shri Lakhi Raj Deka, Saman Mukherjee and 5 others while he was working in Pragjyotish Nagar.

On receipt of the complaint the Commission called for a report from the Senior Superintendent of Police (City) vide letter No.

SPAC/C/15/2010/6 dated 6.11.10. In his report the Superintendent of Police (City) indicated the following fact:

“It is a fact that on 19.2.2010 complainant Esha Biswas, s/o Jagadish Biswas of Pragjyotish Nagar lodged an FIR addressing to the I/C Goshala Out Post which was forwarded on 18.2.10 by the Addl. Superintendent of Police (Security), City, Guwahati as “I/C Maligaon OP for taking lawful action”. On receipt of FIR by the I/C Maligaon OP vide GDE No. 393 dated 19.2.10 he forwarded the same to the Officer-in-charge, Jalukbari PS who registered case No. 125/2010 u/s 365 IPC and endorsed the case to ASI Syed Islam Ali for preliminary steps etc. In the FIR it was complained that on 18.02.10 at about 2 PM the younger brother of the complainant, namely, Mohan Biswas, had been abducted by the accused Lakhi Raj Deka, Saman Mukherjee and 5 others while he was working at Pragjyotish Nagar.

The IO of the case investigated the case and visited the PO, recorded the statements of the witnesses. During investigation, it was found that Shri Mohan Biswas, the younger brother of the complainant was an accused of Jalukbari PS Case No. 116/10 u/s 447/379/34 IPC and on 18.2.10 he was apprehended by Shri Lakhi Raj Deka and others and handed over at Maligaon OP. Accordingly, Shri Mohan Biswas was arrested and forwarded in connection with Jalukbari PS Case No. 116/10 u/s 447/379/34IPC. The case was supervised by the Deputy Superintendent of Police, Pandu Division, City, Guwahati and in course of investigation, it was established that to save the accused Mohan Biswas as well as to divert the investigation of the case the complainant Smti. Esha Biswas lodged an FIR which was forwarded by the Addl. Superintendent of Police (Security), City, Guwahati that her younger brother was kidnapped. The Divisional Dy. S.P. in his supervision note suggested the IO to submit Final Report into Jalukbari PS case No.125/10 u/s 365 IPC as false and also to submit counter prosecution against the complainant Esha Biswas u/s 211 of IPC. Accordingly, the IO of the case returned the case in FR vide Jalukbari PS FR No. 189/10, dated 09.08.10 as the case to be false and a proceeding for counter prosecution was also submitted against the complainant Smti Esha Biswas u/s 211 of IPC vide Maligaon OP Non-FIR proceeding No. 07/10.

It may be mentioned here that none was arrested in connection with the case.

The Commission examined the matter in details. From the report it is apparent that Jalukbari PS took up two cases, namely Case No. 116/10 and the other Case No. 125/10. One Mohan Biswas accused in case No. 116/10, was arrested by Jalukbari PS on being produced by the complainant of Case No. 116/10 whereas Case No. 125/10 pertains to kidnapping of said Mohan Biswas by Shri Lakhi Raj Deka, the complainant of the Case No. 116/10. The latter case viz Case No. 125/10 was returned in FR as false. Instead of indicating the case as false it should have been described as a case of mistake of facts thereby entailing no action against the complainant of Case No. 125/10. That apart, the Case No. 125/10 could not have been registered at all on the face of Case No. 116/10.

All things considered it is apparent that something was somewhere seriously wrong at the local police level. The Commission therefore, recorded its displeasure as to the investigation of Jalukbari PS case No. 125/10 in a slipshod manner.

Investigation of a criminal case is a serious matter which needs to be conducted with utmost care and due application of mind. The Police Head Quarter is advised to issue necessary instructions to all the Police Stations of the State for avoiding such lapses in future. The proceeding thus stands closed.

7.3. Case No. SPAC/C/16/2011

Shri Ramesh Shah of village Panikhaiti
Vs
SI Prafulla Barua, I/C, Panikhaiti OP

The Commission took cognizance on the basis of a petition submitted by the complainant Shri Ramesh Shah alleging malfeasance on the part of the police in protecting the rightful ownership/possession of the property of the complainant Shri Ramesh Shah.

On receipt of the complaint the Commission called for a report from the Senior Superintendent of Police of Guwahati City. In due course the SSP submitted a comprehensive report. As per the report it appears that two complaints were received by the i/c Panikhaiti Out Post. One complaint pertains to breach of peace and public tranquility. Police initiated non-FIR proceeding which was numbered and registered as 12/2011. (Reference to Pragjyotishpur Police Station Non-FIR proceeding No. 12/2011-Non-FIR proceeding No. 30/2011 u/s 107 Cr.P.C.) It is also informed that Shri Prafulla Baruah of village Panikhaiti also submitted a complaint at Panilkhaiti OP on 20.3.2011 alleging that the complainant Shri Ramesh Shah of Amgaon had made an attempt to occupy his land located at village Khangkar. Both the complaints were enquired by police, we were made to understand. It was also stated that Prafulla Baruah filed a complaint before the Addl. District Magistrate, Kamrup Metropolitan District, Guwahati praying for drawing up a proceeding u/s 145/146 Cr.P.C. for attachment of the plot of land measuring 1 katha 2 lechas covered by K.P. No. 20 Dag No. 5 of village Khangkar, Panikhaiti. The said complaint was forwarded to Pragjyotishpur Police Station for enquiry. The matter was enquired into and submitted a non-FIR case u/s 145/146/107 Cr.P.C. vide Panikhaiti Out Post non-FIR case No. 01/2011 dated 26.03.2011 before the Hon'ble Court. It is also reported that Magistrate, Guwahati ordered for attachment of the land asking both the parties to establish their possession over the land. The police executed the Court's order on being identified by the Lat Mandal. As to the complaint of Ramesh Shah, the SSP asserted that on the strength of the FIR dated 27.04.2011 Pragjyotishpur Police Station registered Pragjyotishpur PS Case No. 50/2011 dated 27.4.2011 u/s 447/427/379 IPC. The matter was registered and investigated. During investigation of the Pragjyotishpur PS Case No. 50/2011 u/s 447/427/379 IPC, the accused was arrested and investigation is going on.

Considered the matter and upon consideration of all the aspects of the matter, the Commission found that the police proceeded in the right direction and no misconduct is discernable against the police personnel.

In the set of circumstances, the Commission considers it appropriate to drop the proceedings. Proceedings thus closed. Furnish a copy of the order to the complainant.

7.4. SPAC CASE NO. 20/2009

Shri Bhanu Tassa, s/o Lt Shyam Tassa,
Mura Line, Dinjan Tea Estate, Dist. Tinsukia

Vs

Shri Numal Mahatta,
Dy.SP, Shri Padmadhar Chetia, O/C, Tinsukia PS and
Shri Mohidhar Gogo, i/c Panitola Outpost.

The proceeding has arisen out of a complaint lodged by one Shri Bhanu Tassa s/o Late Shyam Tassa, resident of Mura Lane, Dinjan Tea Estate, Dist. Tinsukia alleging serious misconduct against police personnel of Tinsukia Police District. The Complainant alleged inter alia that on 25.5.09 he lodged a complaint against Shri Boga Bhumiz, Shri Mony Bhumiz and their associates who assaulted his brother Shri Babul Tassa and Shri Nigaru Gosain at Panitola OP. Again on 14.7.09 Shri Babul Tassa had lodged a complaint before the Panitola OP. But no action was taken by police. He further alleged that on 17.7.09 Shri Monu Bhumiz along with his associate forcibly entered his quarter by breaking the main door and assaulted his mother Smt. Shanti Tassa, Sister Amala Tassa. In this respect his mother Shanti Tassa had lodged a complaint before the Panitola OP on 24.7.09, but no case was registered. It is also alleged that on 4.9.09 at about 5-30 PM Shri Jamel Manki, Manu Bhumiz along with 25/30 persons entered his company quarter and started breaking household articles. He lodged an FIR at Tinsukia PS to this effect and accordingly Tinsukia PS Case No. 586/09 was registered but without any action against the alleged malefactor. The complainant also alleged to the effect that on 29.7.09 he had lodged a complaint before the SP, Tinsukia but no action was taken by police officials. On 25.8.09 the complainant again lodged a written complaint before the Addl. SP, Tinsukia but again of no avail.

On receipt of the complaint the Commission called for a report from SP, Tinsukia who submitted a written report. The Commission also

called for personal appearance of the police personnel along with the police records. The Commission heard the police personnel namely Dy. S.P. Shri Numal Mahatta, APS, ASI Tankeswar Sonowal, i/c Panitola OP, Inspector Padmadhar Chetia, OC, Tinsukia PS. Shri Numal Mahatta, APS, Dy.SP submitted a report on the complaint of Bhanu Tassa. The commission also called the SP, Tinsukia. The commission heard the police personnel as well as the complainant.

ASI Tankeswar Sonowal, i/c Panitola OP has stated that on 25.5.09 Shri Bhanu Tassa appeared on Panitola OP and informed verbally that one Boga Bhumiz and others assaulted his brother Shri Babul Tassa and Shri Nigaru Gosain by tying them up with rope. On receipt of information he rushed to the PO and found that an unruly mob consisting about one thousand tea labourers tied up two persons and were beating them. He immediately informed OC, Tinsukia, Inspector Padmadhar Chetia and Shri Numal Mahata, Dy.SP (HQ), Tinsukia for reinforcement as the huge gathering could not be controlled due to inadequate force with him. The concerned officer however, did not send any force to the PO even the OC did not visit the PO. The brother of victim Shri Bhanu Tassa lodged an FIR stating the above fact at Panitola OP as Inspector Padmadhar Chetia arrived at OP and directed to submit a Non-FIR case instead of registering a criminal case.

Shri Numal Mahatta APS, Dy.Superintendent of Police did not visit the PO nor could send any armed force for reinforcement.

Perused the records including the statements of concerned official. No reasons are discernable reason for not registering a case by the OC, Tinsukia PS despite the fact that an unruly mob of 1000 tea labourer of Dinjan Tea Estate beat up two persons on 25.5.09. Admittedly it is a serious lapse on the part of the OC, Tinsukia PS for not registering the case who instead instructed his subordinate officer to submit a non-FIR case (PS GD No. 380/384 dt. 25.5.09 and 393 dtd. 26.5.09). The ASI Tankeswar Sonowal visited the PO. But it was natural that he needed re-enforcement. The Tinsukia District Police even after receiving information buried their head in the sand and left them alone at the mercy of the hooligans without caring for law. The complainant though submitted FIR on 17.7.09 and 24.7.09 at Panitola OP, i/c, Panitola OP

did not inform Tinsukia PS for necessary action and the complainant approached the Chief Judicial Magistrate, Tinsukia who ordered OC, Tinsukia to register a case. This is a glaring example of not receiving FIR by Tinsukia and Panitola Police. The senior officers of the district namely Shri Diganta Bora, IPS, SP, Tinsukia, Addl. SP Mukul Saikia also followed the same pattern of behaviour as that of i/c Panitola OP and the OC, Tinsukia PS instead of discharging their duty in conformity with law. Shri Numal Mahatta, ASP, Dy.SP, Tinsukia willfully abstained from the duty when it was informed of the incident at Mura Lane, Dinjan Tea Estate on 25.5.09 by ASI Tankeswar Sonowal for necessary guidance. It has also been observed that both OC, Tinsukia, Inspector Padmadhar Chetia and i/c Panitola OP have failed to register the case on the FIR which amounted to serious misconduct u/s 78(1) (g) read with section 98(b) of the Assam Police Act, 2007, police failed in discharging their lawful duties and prima facie committed serious misconduct.

We have given our anxious consideration on the matter. Keeping in mind the constitutional scheme and more particularly the mandate of the Assam Police Act, 2007 the Commission consider it appropriate to direct the DGP of the State for drawal of Departmental Proceedings against the then OC, Tinsukia PS and I/C Panitola Out Post for their willful negligence to register the case on the cognizable offence reported by the complainant.

The Commission thus consider it apt to pass the appropriate direction to the DGP under Section 82 of the Assam Police Act, 2007, for initiating departmental proceeding forthwith against the officers named above, keeping in mind the materials on record including evidence on record relied upon by the Commission as well as the findings of the Commission. The DGP is given an opportunity of three weeks' time to present the departmental view and additional facts if any, not already in the notice of the Commission before finalizing its opinion.

7.5. SPAC CASE NO. 22/2009

1. Smt. Ruma Kapoor, Secretary,
jayanta Narayan Music School
2. Shri Sambhu Nath Saha, Secretary,

Assam Science Society, Lakhimpur
3. Smt. Sibani Choudhury, President,
Madan Mohan Mandir, Lakhimpur and
4. Shri Sashi Bhushan Brahma, Secretary,
Shankar Dev Sishu Niketan

-Vs-

OC, Lakhimpur PS, SI Lokman Hussain &
SI Gokul Baua

The State Police Accountability Commission received a written complaint submitted by Smt. Ruma Kapoor, Secretary, Jayanta Narayan Music School, Shri Sambhu Nath Saha, Secretary, Assam Science Society, Lakhimpur, Smt. Sibani Choudhury, President, Madan Mohan Mandir, Lakhimpur and Shri Sashi Bhushan Brahma, Secretary, Shankar Dev Sishu Niketan on September 16, 2009 to the effect that a large group of hooligans forcibly entered into the Jayanta Narayan Memorial Music School premises on 11.8.09 at 2.30 PM and broke the lock of the room and put another lock on the door and occupied the premises with substantial damage in presence of Shri Gokul Chandra Baruah, SI of Lakhimpur Police Station in accompaniment of police personnel from the said Police Station. It has also been alleged that SI Lokman Hussain, OC, Lakhimpur Police Station also visited the premises late in the evening on that day and refused receiving of First Information Report lodged at the Lakhimpur Police Station following the incident on the same day and did not take any action against the hooligans in spite of the fact that he had the information of the incident of forceful occupation of the school property. It has also been alleged that a group of hooligans occupied the land of Assam Science Society on 12.8.09 in presence of Police personnel of the Lakhimpur Police Station on the spot and the FIR lodged before the Lakhimpur PS was also not received by the Police. Similarly, it is also alleged that hooligans entered into the Madan Mohan Mandir at Lakhimpur on 13.8.09 and occupied temple premises with bamboo fencing and closed the gate of the temple. It has also been alleged that on the middle of the night on 13.8.09 a group of hooligans entered into the Shankar Dev Sishu Niketan and destroyed the school room. An FIR was lodged but without any action. Thus the allegation is brought against the OC, Lakhimpur Police Station, Lokman Hussain, SI Gokul Chandra Baruah and police personnel for aiding the encroachers dispossessing the

owners from their rightful property with clear subversion of process of law and shaking the very foundation of democracy and hence the guilty police officers should be taken to task.

The Commission on examination of all aspects of the matter and accordingly registered the case and called for the police report. The police report as received sans relevant records. SP concerned was advised to submit the record accordingly. The Commission also examined Smt. Ruma Kapoor and Tridibendra Narayan Choudhury. That apart, the Commission also caused an investigation through its own agency, who submitted in course of time its report.

The materials on record unerringly points out that unlawfully and in a illegal fashion under the leadership of OC Lokman Hussain combined with Shri Suman Choudhury, the alleged encroacher, the Lot Mandal, Kanungo, Asstt. Settlement Officer and Settlement Officer dispossessed the rightful owners of the landed property including the building. The land was partly transferred to Shri Suman Choudhury and others without following due procedure prescribed by law and that too without appropriate notice to the owner of the land. Notice was not issued to occupants of land to submit their claim and entire process was done to dispossess the owners of the land. The investigating agency examined and recorded statements of the witnesses (15) and also records pertaining to the complaint.

Investigation of the cases points to a clear design of the OC Lokman Hussain to effect encroachment of the land. SI Gokul Ch. Baruah in the name of investigation of case No. 280/09 abetted encroachment. He was present at the site of the land ensuring that the encroachment was smooth without intervention by the occupants and public.

Shri Tridibendra Narayan Choudhury was wrongfully confined at Lakhipur PS deliberately to keep Shri Choudhury away from Lakhipur in order to make the encroachment smooth. SI Lokman Hussain, the then OC, Lakhipur PS is liable for criminal action for wrongful confinement besides being liable for criminal conspiracy in the encroachment of the landed property and abetment.

The police personnel SI Gokul Chandra Baruah seemingly engaged himself in criminal act in refusing to receive the FIR and to act thereof engaged himself in perfunctory investigation of the Case No. 304/09.

The Investigating Agency apart from examination of witnesses also obtained the revenue records including the order and direction of the Assam Board of Revenue in appeal case No. 139RA(G)/09. The Commission went through the report of the Investigating Agency along with the materials relied upon including the revenue records. The Commission on perusal of records found that SI Gokul Ch. Baruah indulged himself in criminal act in not receiving FIR and action taken thereof of perfunctory investigation in case No. 304/09 with the aid and support of the land revenue staff and the complainant Shri Suman Choudhury.

The Revenue Board's order and the action taken by the then Deputy Commissioner, Goalpara testify that the police action as alleged in the complaint to the Commission suffers from conspiracy and abetment in the dispossession of the property from the rightful ownership of the institutions.

The judgment and order passed by the Chairman of the Assam Board of Revenue, Guwahati in the Appeal Case No. 139RA(G)/09 is reproduced below:

“This appeal had been taken up as the learned Counsel had very forcefully argued that the learned Deputy Commissioner, Goalpara had verbally threatened personally twice to evict the appellants, if they did not vacate the land. The learned Counsel had insisted that this was a fact and affidavits to this effect had been filed. It had been recorded in the order dated 8.10.2009 that I found it difficult to believe this and had also recorded that if the statement on oath given by the appellants is found to be false a case of perjury would be filed against them. The Deputy Commission, Goalpara had been restrained from evicting the appellants on verbal orders, but it had been mentioned he was at full liberty to proceed to evict them as per law.

The Deputy Commissioner, Goalpara had submitted his report wherein it is mentioned that the Hon'ble High Court had issued certain

directions in compliance with which he along with other officers had visited the area on 25.09.2009 where-after minutes have been drawn up on the course of action to be taken, as per the directions of the Hon'ble High Court. He has also stated that at no stage he threatened the appellants and that except for the field visit on 25.09.2009 he has not visited the area. It is clear that the appellants have made a false statement on oath and are liable to be prosecuted for perjury. The Secretary of the Board shall take steps for filing criminal cases against the appellants accordingly.

This appeal had not been admitted on 08.10.2009. The question of admission was to be decided after seeing the report of the learned Deputy Commissioner, Goalpara. Now having seen the report of the learned Deputy Commissioner and having heard the learned Counsel for the appellants, it is clear that a prima facie case is not made out. The appellant is hence not admitted. The order dated 08.10.2009 had clearly stated that the Deputy Commissioner is at full liberty to proceed in the matter as per law. It is seen from his report that despite this the order was understood to have granted a stay. In view of this misconception, it is ordered that whatever was understood to be a stay stands vacated. No costs."

*Sd/- H.M. Cairae
Chairman*

The Commission also heard in person Smt. Ruma Kapoor, Shri Tridibendra Narayan Choudhury. Discrepancies were noticed in the reports of SP and that of the Dy. S.P. (HQ) Goalpara.

The investigative report along with the records unerringly pointed out that the patta lands of the rightful owner were allowed to be encroached by the police personnel. The records particularly pointed out the encroachment made by 9 persons with the active connivance of the police personnel to forcefully deprive the rightful ownership of the property.

As per the land records the land in question were recorded in the name of Ms. Sulochana Choudhury and Jayanta Narayan Choudhury. In

course of time the land measuring 2B 1K 15L was mutated in the name of Jayanta Narayan Memorial Music School, 5 B in the name of Madan Mohan Mandir, 2B in the name of Sankar Dev Sishu Niketan and 1B in the name of Assam Science Society.

The above organizations entered into possession of the land by regularly depositing the land revenue and they have been functioning on the above land which was duly mutated in their names. Surprisingly on 19.5.09 the names of the following persons were entered in the land record of the said land.

(1) Shri Suman Choudhury (2) Subha Choudhury (3) Manjula Choudhury as per verbal order of Shri Chittaranjan Roy, Settlement Officer.

Materials on record also indicate that the act of encroachment was committed with the active aid and abetment of OC and SI Gokul Ch. Baruah. Evidences also disclose that Lakhipur PS Case No. 280/09 U/S 120B/420/417/447/506/34 IPC registered on the strength of FIR lodged by Shri Suman Choudhury that the issue relates to a civil dispute and non-cog to police. But OC Lokman Hussain registered the case and abetted the offence of encroachment and during the encroachment the police locked the Rajbari gate and did not allow the local people to enter and worked entirely for the encroachers. SI Anwar Hussain, Inspector B.C. Das, CI, Dudhnoi, Kanungo and Mandal of Lakhipur Circle admitted that before unauthorized encroachment of the said land it was under the possession of those institutes. The Kanungo and Mandal of the Lakhipur Circle admitted that the land in question was in the name of the institutes even after entering the names of Shri Suman Choudhury and others. Before entering names of Shri Suman Choudhury and his family members, lot Mondal and Kanungo made specific prayer in the report for issuing the required notices and hearing the members/organization occupying the land if they had objections.

The copy of the Zamabandi indicates as vouched by the Lot Mandal and Kanungo during their examination indicates that the names of the institutes have also figured in serial number 1-4 along with Shri Suman Choudhury and others from sl. No. 5-10. It is found that the

encroachment was done by the encroachers in abetment and conspiracy of the OC Lokman Hussain and SI G.C. Baruah amounting to cognizable offence of criminal trespass, forcible dispossession of properties from the rightful owners. The illegal act of encroachment and trespass was brought to the knowledge of police besides an FIR to police on the date of incident. But the police did not act as per the rules and procedure and the FIR was blatantly refused by Lakhipur Police. The OC Lokman Hussain and SI Gokul Ch. Baruah instead entered into the criminal conspiracy and aided the encroachment of land and properties in gross violation of rule of law. The Lakhipur Police under leadership of the OC Lokman Hussain wrongfully confined Shri Tridibendra Narayan Choudhury on 7.8.09 at Lakhipur PS from 11-30 am to 11-00 pm apparently to put him in fear of being implicated in false case in order to facilitate the encroachers to the land. Shri Tridibendra Narayan Choudhury in fear of imminent arrest left Lakhipur. Shri Tridibendra Narayan Choudhury was the only person having full knowledge of the property and when he absented having been blackmailed by OC Lakhipur PS made use of the situation to effect the encroachment.

The commission is of the considered view that the local police headed by Lokman Hussain, the then OC, SI Gokul Ch. Baruah, SI Rabindra Biswas, ASI Hussain of Lakhipur PS entered into a criminal conspiracy with one Suman Choudhury and encroachers namely:

- (1) Md. Nur Mohammed S/o Lt. Barizuddin
- (2) Md. Jamaluddin, s/o Lt. Kasumuddin
- (3) Abdul Khan s/o Masu Seikh
- (4) Md. Bakkar Maulabi s/o Maniruddin
- (5) Md. Abdur Rahman s/o Azibur Rahman
- (6) Md. Jamir Akand s/o Lt. Riazuddin Akand
- (7) Md Fazar Ali s/o Sahab Ali
- (8) Md. Mainul Haque s/o Lt. Sajahan Ali
- (9) Md. Hussain Ali s/o Kadam Ali,

who usurped the landed property and buildings from the lawful custody of the owners/occupants who have been occupying the same paying dues to the Revenue authority. Shri Tridibendra Narayan Choudhury was accosted by police on 7.8.09. He was confined at the Police Station without rhyme and reason. The then OC of the Police Station Lokman Hussain omitted willfully the records relating to sending SI Rabindra

Biswas with the departmental vehicle to take Shri Tridibendra Narayan Choudhury into his custody and keeping him till late at night in the Police Station confined. In fact there should have been entries in the General Diary to the effect but OC manipulated it by omitting the action in the GD and he is, therefore, guilty of confining Shri Tridibendra Narayan Choudhury and manipulating the public records. At the initial point of enquiry the fact was totally hidden by both district police as well as the OC of the Police Station. But only in course of examination, CI, Dudhnoi admitted to have seen and also interrogated Shri Tridibendra Narayan Choudhury at Lakhipur Police Station in the evening of 7.8.09. The GD entries concerning movement of SI Gokul Ch. Baruah on 11.9.09 are forged by the OC.

Report of the Superintendent of Police, Goalpara and that of Dy.S.P.(HQ) and the Circle Inspector indicate that the SP is supportive of the action of the then OC Lokman Hussain and also the SI Gokul Ch. Baruah of Lakhipur PS and emphatically denying receiving of FIR from the complainant on the date of incident on 11.8.09. The SP has thus omitted to have looked into the issue of the FIR. His office received the FIR on 17.8.09 as recourse on the part of the complainant to have submitted the FIR to him/ his office when failed to have got the same received at the local police Station on the very day of the incident. The matter could have been enquired locally by the Dy.S.P. (HQ) and dealt with at the level of the district police at that point of time itself. The Dy. S.P's report rather appears to be protecting the OC and the SI of Lakhipur Police Station rather than a fact finding exercise. Similarly the report of the CI is also misleading so far as the local police movement in connection with the issue on 11.8.09 is concerned. The CI has also opted to base his finding in his report on the GD Entries manipulated by the alleged police officials. His enquiry should have received a fair deal having examined cross-section of people having witnessed the incident as complained of by the complainant to this Commission. The CI himself contradicted with the version of OC Lokman Hussain omitting GD Entry regarding taking into custody of Shri Tridibendra Narayan Choudhury and kept him at Lakhipur Police Station on 7.8.09 While the OC denied to have taken Shri Tridibendra Narayan Choudhury into custody and kept at Police Station, the CI Bhupen Ch. Das in course of his examination by the investigative agency of the Commission admitted to

have found Shri T.N. Choudhury at the Lakhipur Police Station and also making some queries to him on 7.8.09 while he visited the PS.

The senior police officers of the district police maintained that Lakhipur Police committed no wrong except the SP called for explanation on a very generalized type of ground from SI Gokul Ch. Baruah for show cause setting the OC Lokman Hussain scot free from his legal liabilities under Section 154/157 Cr.P.C. as OC of the Police Station having mandated duties for registration and investigation of cognizable offences. It is unfortunate that the district police has failed to have ensured accountability of the two police officers mentioned above of Lakhipur PS as envisaged u/s 78 (1) (e) (g) of the Assam Police Act, 2007. Change of I.O. as a result of the Gauhati High Court's intervention in the WPC No. 4011/2009 in the investigation of Lakhipur PS case No. 304/09 had a fall out of the arrogance with which investigation was left at the mercy of the Lakhipur Police. The new I.O., lady Dy.S.P. of Goalpara not only arrested the offenders but also returned the case in C.S. This act alone is a piece of evidence against the District Police extending blind support to the illegal act of Lakhipur Police with a pointer to extraneous consideration.

All things considered it is apparent that the police personnel cited above instead of safeguarding the interest of the people and engaging itself as an instrument for prevention and detection of crime got itself involved in unlawful acts. The role and function of the police is to protect the life, liberty, property, human rights and dignity of the members of the public. In the instant case the records unerringly pointed out that these personnel throwing to the winds the trust and responsibility of protecting life, property and liberty of the people engaged themselves in criminal acts. The materials on records unerringly point out involvement of OC Lokman Hussain and SI Gokul Chandra Baruah in offences under section 342/120B/347/442 and 466 IPC read with Section 98(a) (b)/99 of Assam Police Act, 2007. The Commission accordingly directs the concerned authority to register FIR against the above two officers treating the complaint in question before the Commission as FIR and also initiate departmental proceedings based on our findings on the basis of evidences collected by the Commission.

7.6. SPAC Case No. 35/2011

Smti Tombi Bibi, Vill – Bhairab Nagar,
P.O Krishnapur, P.S Silchar
Vs
OC Silchar Police Station

The Commission Perused the complaint submitted by Smti Tombi Bibi, Vill – Bhairab Nagar, P.O Krishna Nagar, P.S Silchar, Dist.- Cachar, and also the report submitted by the Police Hqrs., Assam. Since police action has commenced and the Criminal case has been charge sheeted, the proceeding needs to be closed and, is closed accordingly. Silchar police is advised to expedite the process of production of the accused in the Court by arresting him.

7.7. SPAC CASE NO. 01/2011

Political vigilance Cell, Home Deptt., Assam
Vs
Maloy Kr. Acherjee, TSI, Nalbari Police Station

The Commission on receipt of the Government of Assam, Political (Vigilance Cell) letter No. PLA (V) 222/2010/16,dtd 11th January, 2011 looked into the matter and gave its utmost consideration. The material on record reveals that the competent authority had already initiated disciplinary proceedings against the police personnel as per law. The Commission expects that the proceedings will come to a logical end under the supervision of the concerned police authority. In the set of circumstances, it will not be appropriate on the part of the Commission to intervene. The appropriate authority is to proceed as per law accordingly. Concerned authority may be informed.

7.8. SPAC CASE NO. 27/2010

Smt. Dipali Saikia, Shri Prasanta Das and ors
Vs
OC Behali PS SI Ananta Das & SI Sankar Bania

This proceeding arose out of a complaint petition presented by one Smt. Dipali Saikia and 48 others against the OC Behali Police Station as well as the SI of Police Sankar Bania. The complainant inter alia alleges corruption harassment in the police station and misbehaviour/improper behaviour against the women. She also cited of an incident of forcibly taking a pregnant woman along with a minor girl in the Police Station on the pretext of clash between two brothers that too without associating lady police personnel for which the Thana was gheraoed by the women of the locality.

On receipt of the complaint, the Commission called for detailed report from the Superintendent of Police, Sonitpur. The Commission perused the report which was of lackadaisical nature. The report however, admitted about taking of the two ladies including a minor girl by the police without linking of lady police personnel. As per the report, apprehending retaliation, the SI Bania took two ladies including a minor to the Police Station for their protection. Later on these ladies were handed over to one Mrs. Halen Das and Shri Dignata Das in presence of Gaonbura and Secretary, Behali Press Club for their safe custody. A reference was made to the GD Entry No. 688. The commission called for records to examine the GD Entries to ascertain the custody of the women and minor girl. Not being satisfied with the report, the Commission thought it proper to probe locally and accordingly Sr. Investigator was entrusted for investigation. Materials on record and from the report of investigation it is found that the OC, Behali PS violating provisions of Assam Police Manual started enquiry without registering a case. Police record was found to be manipulated. Police official was deputed for enquiry even without registering criminal case violating rules and procedure prescribed but also ignited the minds of the common people for falsely implicating the complaints leading to harassment by police. This is a common aberration of rural police. In sharp contrast to the police records and statements, the witness have not mentioned about the quarrel between the two brothers resulting in very grievous injuries to Nabadeep Saikia on account of his mischief committed by slaying of chicken. It highlighted taking custody of one woman and a minor girl by police and confining them at Police Station for hurling abuses.

The Commission gave its anxious considerations on the subject. All things considered the Commission directs the Director General of Police to initiate departmental action against Shri Ananta Das, OC, Behali Police Station and SI Sankar Bania for wrongful confinement of one woman and minor girl and taking up enquiry without registration of a case for which OC Ananta Das is squarely accountable.

The Commission directs the concerned authority to initiate actions as per law as indicated above. The DGP is also given an opportunity to present the department's view and provide additional facts, if any, not in the notice of the Commission within two weeks from the receipt of this order along with the materials on record to enable the Commission to finalise its opinion.

7.9. Case No. SPAC/C/50/2008

Shri Hitesh Deka & Ors

Vs

Md. Taizuddin Ahmed, SI , SFSO, Assam, Guwahati

The Commission received a complaint against Md. Taizuddin Ahmed, SI of Police working in the State Fire Service Organisation (SFSO) on deputation, who was in course of time promoted to Inspector of Police and posted as Reserve Inspector in the State Fire Service Organisation. (Hereinafter referred to as SFSO to be brief). The allegations inter alia were relating to corrupt practices, allegedly carried out by the officer having posted in the SFSO for about 10 years time. The nature of corrupt practices is set out below:

The police officer acquired house building at Saru Motoria near Bageswari Mandir at Guwahati, Hatigaon Chariali, Masjid Road, recruited unsuitable Firemen and Drivers receiving bribe of Rs. 2 lakh to 2.5 lakhs.

Extorted the Firemen and Drivers from 99 appointed Firemen and 34 Drivers all newly recruited putting them in utter fear on the pain of losing their jobs in the face of Writ Petition in the Hon'ble High Court filed by candidates not selected for the posts. The Inspector of Police is

alleged to have deducted Rs. 1000 (one thousand) each from the 99 appointed FM/Drivers per month and salary deducted from two newly appointed personnel and misappropriated the entire money. It was also alleged that though the complaint was looked into by the then Director of the SFSO and warned the Inspector of Police to stop the salary cut. But the money already extorted by the Inspector of Police in the name of court case was not recovered. The entire money was thereby misappropriated by the Inspector of Police Taizuddin Ahmed. It would be appropriate for all concerned to examine as to the alleged impediments of an appropriate and fair enquiry, stalling of CID enquiry against the concerned officer. For fitness of things the Police Department itself also need to take appropriate departmental action.

This is indeed distressing and disturbing there must have been dirty works at the grass root. For the good of the health of the State and for the imperative of good governance and accountability those who are in charge of the administration should ponder over the matter and find out the person or persons responsible for causing impediment against an appropriate and fair enquiry and as the design in stalling the CID enquiry against the concerned officer. Police Department also cannot wash its hand. It calls for an appropriate departmental action The Commission feels that the Police HQ should take serious note of it and initiate appropriate action against those persons responsible in shielding the malefactor.

The Inspector of Police is alleged to have been indulging in various corrupt practices in the matter of transfer, posting, leave, awards, etc. It has also been alleged in the complaint that IGP (Admin) initiated enquiries against Inspector Md. Taizuddin Ahmed and CID Inspector Shri Jagat Borphukan conducted the said enquiry, but the enquiry was reportedly stalled by Inspector Taizuddin Ahmed.

On receipt of the complaint the Commission asked from the Director, SFSO for a report against the allegations received. The Commission received a reply which was seemingly unsatisfactory. The Investigator examined 11 persons of the SFSO. The Commission also examined some of the records and documents which were made available to the Investigating Agency. The Investigating Agency

submitted its report which indicated serious involvement of the concerned officer in blackmailing and extortion from the newly appointed personnel. The report of the Investigating Agency as well as the materials relied by it indicated that the concerned Reserve Inspector extorted the newly recruited Fire Men and Drivers. He extorted huge sum of money in the name of expenses of the Court cases. There were also allegations involving corruption against the officer which the Commission already mentioned by order dated 11.6.2010 and recommended Government of Assam to entrust the case to Chief Minister's Vigilance Cell for investigation and take action as per law. The Commission was not made aware as to whether actions in this regard were set in motion by the Government. No reply to that effect so far was received. On reviewing the situation the Commission considers it appropriate to probe the allegations against the concerned officer, Inspector of Police within the frame work of the Commission in the public interest and in the interest of police accountability as per law. The Investigating Agency of Commission was accordingly asked to complete the investigation, which the Investigating Agency did.

The Commission perused and considered the report of the Investigating Agency including materials relied upon by the Investigating Agency. The Commission also examined the letter dated 15.9.11 submitted by the Director, SFSO to the Commission, by which it insisted the Commission to drop the proceeding on the basis of the judgment passed by the Hon'ble Gauhati High Court, findings of the enquiry made by the Deputy Director, SFSO and also for want of jurisdiction of the State Police Accountability Commission. The Office of the Director General of Police referred to a Government letter dated 1st April, 2010 wherein it mentioned that in view of the State Fire Service Act and the Rules framed there under, the State Fire Service Organisation is governed by the Act and the Rules and as such the Director, SFSO does not come under the purview of the Assam Police Act, 2007. No reasons were ascribed in support – barely an ipse dixit. The State Fire Service Act applied to the State Fire Service Organisation is not in doubt. But by that itself one cannot take away the jurisdiction of the Commission to look into the alleged misconduct for misdemeanour of police personnel even those who are posted in the State Fire Service Organisation or other police wings and other departments. The police

personnel when posted in this department including the other police wings they do not cease to be police personnel. The controlling authority of SFSO is none other than IGP, who is appointed under Section 4 of the Assam Police Act, 1861 and Section 5 of the Assam Police Act, 2007. Additional Director General of Police and Director of SFSO/ Inspector General of Police are appointed by the State Government to exercise such functions and duties and have such responsibility as may be prescribed by the Government. The letter referred to above since were not accompanied by the judgment passed by the High Court and the report of the enquiry made by the Dy. Director, SFSO, the Commission requisitioned the aforesaid materials vide communication dated 21.10.11 the Addl. Director General of Police cum Director SFSO forwarded the judgment of the Gauhati High Court in WP (C) 811/2005 disposing the Writ Petitions vide judgment dated 15.5.2008. The Commission perused the judgment and order of the High Court which did not have the occasion to address the issues raised before us as to the complicity or involvement of the police personnel in blackmailing/extortion to employees of the newly appointed Firemen and Drivers of the SFSO. The Commission also perused the report of Dy. Director, SFSO, memo no. nil dated Guwahati 2.6.2009 forwarded by the Director, SFSO. It was revealed that the concerned person Md. Taizuddin Ahmed served the SFSO from 24.8.2003 as R.I. till transfer from the SFSO to CID on 22.4.2009. This itself reveals that the officer concerned continued to remain as a police officer. Controlling authority is Police Headquarters, which from time to time transfer and post these police personnel. On ones posting to other departments a police personnel does not cease to be a police personnel. His report also indicated to the effect that as per the statements of (1) Fireman Ramen Kalita, (2) Driver Nirmal Panging, (3) Driver Joy Das and (4) Fireman Jitu Sarmah, the then R.I. Taizudding Ahmed collected one month's pay in two instalments from 99 FM and 34 Drivers for payment of Advocate's fee for respondents in the Gauhati High Court. The report also indicated that the Gauhati High Court upheld the appointment of FM/Drivers and they need not be asked to defend their case as the case is defended by the Govt. Despite these findings of fact in clear and unequivocal terms the Deputy Director fell into obvious error in holding "that the charges against the then RI Taizudding Ahmed could not be sustained". This conclusion is seemingly perverse. It is surprising how on the face of the materials on

record which unerringly established the culpability of the concerned officer, but for all the more reasons the Addl. Director General of Police cum Director, SFSO and in a unwary fashion trying to safeguard the alleged misdemeanor and dereliction of duty of a police personnel.

We have given our anxious considerations on the entire matter. The Commission is satisfied with the steps taken by the Investigating Agency of the Commission and the way it reached its findings on assessment of the factual materials. All things considered the Commission is convinced that the concerned officer is out and out a police personnel and the police personnel is accountable under the law for committing misconduct as well as serious misconduct. The complaint bears merit for investigation of the alleged crimes and misconduct.

In view of the findings and observations made above, it is directed to the appropriate authority to lodge FIR against Md. Taizuddin Ahmed, police personnel for blackmailing/extortion and also initiate departmental action treating the complaint dated 04.08.08 received from Shri Hitesh Deka and others as FIR. The Commission therefore, directs the DGP, Assam to cause initiation of departmental action against Md. Taizuddin Ahmed as per law.

The Director General of Police is requested to present the department's view and additional facts if any not already in the notice of the Commission within two weeks from the date of receipt of the order to enable the Commission to finalise its own opinion.

Earlier, the Commission issued direction to the Govt. Recommending investigation by the Chief Minister's Vigilance Cell into the allegations against the Police Officer. Having no response, the Commission reviewed its order dated 11.6.2010.

7.10. SPAC CASE NO. 14/2010

Shri Gopal Chakraborty
s/o Late Boloram Chakraborty,
Qrt No. 9C, Gosala East, Guwahati-11
Vs
OC, Jalukbari Police Station

Whether a person concerned in criminal acts as complained in this Commission can be charge sheeted showing him absconder without due process of law for his apprehension is key question.

Facts – The complainant lodged a written FIR before the Jalukbari Police Station to the effect that one Subhash Deb Nath of Maligaon executed a deed No. 466/2004 for sale of a plot of land and when approached to hand over the plot of land was threatened by said Subhash Deb Nath to keep in behind the bar on some false police case by him and his wife.

Shri Gopal Chakraborty lodged an FIR before the Jalukbari PS but did not get satisfactory response from the Jalukbari PS in the matter of his complaint. However, Jalukbari Police on receipt of a complaint from the Court of the Chief Judicial Magistrate, Kamrup registered Jalukbari PS Case No. 284/06 u/s 420/506 IPC against Shri Subhash Deb Nath. The case was investigated by SI M Khan and SI N.K. Choudhury. The case was charge sheeted against Subhash Deb Nath showing him absconder.

The Commission examined the matter in details and from the report it is apparent that Jalukbari PS has taken up the case vide No. 915/10 and surprisingly the accused could not be arrested even though he was committing similar crime for which the Jalukbari PS registered Case No. 266/06 u/s 420/506 IPC, Case No. 253/06 u/s 420/506 IPC, (Case No. 284/06 u/s 420/506 IPC). The victims are respectively Smt. Manju Bhattacharjee, Smt. Anjana Chakraborty and Shri Gopal Chakraborty, the complainant of the instant case and in another case in which Shri Samar Mukherjee was also cheated by the same person namely Subhash Deb Nath for a plot of land measuring 3K 15L covered by Dag No. 545 old, 1`75 new and patta No. 70,79 old and 280 new of

village Gotanagar with an advance of Rs. 1,75,000/- but the accused Subhash Deb Nath even accosted Shri Samar Mukherjee implicating him in a criminal case of kidnapping and abduction and for which Jalukbari PS registered a case No. 125 promptly u/s 365 IPC but was found false and counter prosecution was launched against the complainant (here accused). The Jalukbari police have failed to take the report before process legally to apprehend the accused.

All things considered it is apparent that something was somewhere seriously wrong at the local police level. The Commission therefore, recorded its displeasure on the investigation report of Jalukbari PS Case No. 284/06. Investigation of a criminal case is a serious matter which needs to be conducted with utmost care and due application of mind particularly in respect of the accused Subhash Deb Nath, who has been habitually committing the offence of cheating and intimidation in various land deals executed with innocent public and any amount of police action in the investigation without apprehension of the accused raised suspicion against police. The Police Headquarters is advised to issue necessary instructions to the district police for avoiding such land encroachers. The proceeding is thus closed.

7.11. SPAC CASE NO. 47/2010

Shri Ratan Das, Constable,
Arunachal Pradesh
Vs
OC Laluk Police Station

Shri Ratan Das, a Constable of Arunachal Pradesh, while he was coming in his motorbike met with an accident on 20.1.2010 at about 9-30 am on the NH -52 near Tunijan Bahbari village. He lodged a complaint before the Superintendent of Police, Lakhimpur, to the effect that a white coloured vehicle bearing registration No. AS-12F-3954 that moved at a high speed banged at him in his motorbike causing serious injury on his right leg. The local inhabitants called for the ambulance that took him to Lakhimpur Civil Hospital for treatment. After some time OC, Bandardewa PS along with his staff appeared in the Civil Hospital, North Lakhimpur and ascertained about the medical treatment

rendered to the complainant. The complainant also alleged that he handed over an FIR to OC, Bandardewa PS to hand over the same to the OC, Laluk Police Station. According to him though the FIR was submitted, OC, Laluk PS refused to accept the FIR. It was alleged that on 23.1.10 when his wife Smt. Minu Das submitted an FIR in Laluk Police Station, the OC declined to accept the FIR. According to the complainant his nephew, Shri Ram Mohan Das also submitted an FIR thereafter to Laluk Police Station, but of no avail. Finding no other alternative he submitted a complaint to the Superintendent of Police, Lakhimpur dated 20.8.2010. One such copy was also addressed to the Commission and the Commission on receipt of the same forwarded the complaint to the Superintendent of Police, Lakhimpur vide letter, dated 13th Sept, 2010 for a report. In course of time the SP, Lakhimpur submitted a detailed report before the Commission. The report clearly indicated that SI Prakash Nath declined to register the FIR. The Commission also summoned Shri Prakash Nath, the then OC, Laluk PS and he was examined by the Commission. Before the Commission SI Prakash Nath asserted that he did not receive any FIR from Shri Ratan Das on 20.1.10. He, however, asserted that he received telephonic message to the effect that an accident took place near Tunijan Guwahad Tea Estate between a motorbike and a car. He also stated that he made an entry in the GD. He further stated that he went for local inspection where he found that an accident had taken place and recorded statement u/s 161. He also stated that he used Miscellaneous Case Diary (MCD). He prepared a map along with the index. He also asserted that the FIR dated 20.8.10 which was submitted to the SP, Lakhimpur was received by him and immediately on 26.9.10 he registered the case. The commission also recorded the statement of SP, Lakhimpur on 27.2.11 wherein he clearly indicated that Addl. SP (Security) submitted his report confirming non-registration of the case. On 26.9.10 a written order to register the case was sent to the Police Station. The SP also stated that no DP had been initiated against SI Prakash Nath since the matter was being looked into by the Commission. The act of the concerned OC is reprehensible. But the facts indicated above, so speak that the concerned OC has failed to perform his duty timely. He registered the case only on the intervention of the SP. SI Prakash Nath, the then OC, Laluk Police Station failed in his duty entrusted by law to register the FIR without any valid reason which amounts to serious

misconduct within the meaning of clause (g) of Section 78 (1) of the Assam Police Act. The above act of the SI also amounts to dereliction of duty within the meaning of Section 98 (b) of the Act. The concerned SP before the Commission himself stated that he refrained from initiating departmental proceeding against the officer concerned since the matter was under the scrutiny of the Commission.

All things considered the Commission therefore, directs the SP, Lakhimpur to initiate departmental action against the concerned officer with utmost expedition as per law. With this the proceeding thus stands closed.

7.12. SPAC Case No. 02/2011

Smti. Sumi Deka D/O Sri Kandarpa Deka,
R/O, Lichu Bagan, Hengrabari,
House No.-8, P.S.- Dispur. -

Vs

OC Dispur Police Station

The Commission received a complaint dtd 20.01.2011 from Kusum Deka daughter of Sri Kandarpa Deka, resident of Lichu Bagan, Hengrabari, House No. 8, Dispur Police Station,

Having gone through the complaint petition, the Commission decided to call for a detailed report from the Sr. S.P., City, Guwahati.

The Commission perused the report received from the Sr. S.P., City, Guwahati and also read the enquiry report submitted by Dy. S.P., Dispur Division. The police took prompt action in registering a case vide Dispur Police Station Case No. 54/2011, U/S 147/447/325/379/506/427 IPC. Moreover, four cases were registered on the complaint lodged by the 1st party and the 2nd party. The Sr. S.P., City, Guwahati has assured the Commission that the case is under investigation and the same will proceed strictly as per law. In the set of circumstance the proceeding is closed with the direction to the Sr. S.P., City, Guwahati to keep the Commission informed about the progress of the case time to time. The complainant be informed accordingly.

7.13. SPAC Case No. 20/2008

Shri Debeswar Buragohain

Vs

Shri Pradip Kalita, i/c, Bhogdoi OP, Jorhat PS

Complaint petition dated 22.4.08 addressed to SPAC was signed by Debeswar Buragohain and 20 others. The Complainants requested the Commission to take necessary action against SI Pradip Kalita, i/c Bhogdoi OP, Jorhat PS. It was alleged that SI Kalita always tries to safeguard the interest of accused person after receiving bribes. It was further alleged that SI Kalita was in the habit of changing FIR just to harass honest person.

In the petition it was alleged that SI Kalita did not arrest accused persons in Jorhat PS Case No. 81/2008u/s 498 IPC although the statement of the victim girl was recorded u/s 164 of Cr.PC and in other case Jorhat PS Case No. 272/07 and GR No. 532/07 registered under section 394 IPC accused persons were not arrested. In spite of repeated request the SI did not record statement of injured persons.

In Jorhat PS Case No. 569/07 and GR No. 1137 registered u/s 376 it was alleged that SI Kalita did not arrest the accused persons. In Jorhat PS Case No. 567/07 and GR No. 1135/07 it was also alleged that SI Kalita arrested Shri Indrajit Bora, Advocate, Jorhat Bar even without recording the statement of the victim.

On receipt of a complaint the Commission registered a case and asked SP, Jorhat to enquire into the matter and submit a detailed report. SP, Jorhat vide his letter dated 31.7.08 furnished a detailed report. As per the report Jorhat PS Case No. 81/08 u/s 498 has been charge sheeted vide charge sheet PS CS No. 65 dtd. 8.3.08. In the report the SP denied the allegation against SI Pradip Kalita of not arresting the accused persons. As per the report in Jorhat PS Case No. 272/07 u/s 394 IPC the IO submitted final report as no evidence could be found against the

accused persons. In Jorhat PS Case No. 369/07 u/s 376 IPC no sufficient evidence could be found. The report also reflected the opinion of Medical Officer, who examined the victim. In Jorhat PS Case No. 567/07 registered u/s 351/376/511/427/326/34 IPC Shri Indrajit Borah, Advocate was arrested and forwarded to judicial custody and the case has been charge sheeted vide Jorhat PS CS No. 346 dtd 30.11.2007.

The Commission also called for a report from DIG (ER) who conducted enquiry into the allegations against SI Pradip Kalita, i/c Bhogdoi OP. The report of DIG (ER) dtd 29.5.08 is at sl 21-23. As per the report of DIG (ER) the allegation against SI Pradip Kalita, i/c Bhogdoi OP, Jorhat PS could not be proved "beyond all reasonable doubt"

Being dissatisfied with the report of SP, Jorhat and that of DIG (ER) the Commission entrusted the case to CI, Shri R.K. Bania, IPS (Retd) for independent enquiry. Shri Bania submitted his investigative report on SPAC Case No. 20/2008 on 22.6.2011.

As per the findings of CI, para 1,2 and 3 of the complaint are not relevant for enquiry in view of Section 78(1) of the Assam Police Act, 2007. Complaint which relates to arrest of Indrajit Bora, Advocate have relevance to the aforesaid provision of the Police Act has been looked into during enquiry.

As per findings of investigation conducted by CI allegation against SI Pradip Kalita of arresting Indrajit Bora, Advocate of Jorhat Bar appears to be having substance. As per report of CI, SI Pradip Kalita who arrested Shri Indrajit Bora and his son Shri Rajdeep Bora have acted in a manner which speaks of a hidden agenda. Change of FIR in Case No. 567/07 cannot be ruled out in view of contradictory records namely requisition from medical examination/ treatment and GDE concerned. The CI referred to the report of DIG (ER) and observed that the DIG (ER) has omitted to have caused supervision of the case locally. In the opinion of CI the concluding para of the DIG (ER) called for a departmental enquiry against SI Pradip Kalita. Investigation by the CI reveals a dismal picture of the role of supervisory officer of Jorhat police Headquarter leaving the PS/OP level officers to act at their sweet will

defying rules, procedure as guardian of law. The case against Indrajit Bora is subjudice in the Court of Session. CI is of the opinion that outcome of court order needs to be awaited for action against the delinquent police official in matters of illegalities in arresting of complainant Bora and sending him into jail custody on presumptive charge of attempted rape whereas the police action in sending two persons for medical examination does not reveal the offences call for specific request without the Case No. and GDE No. nil.

The Commission may perhaps accept the investigative report submitted by CI and take a decision to dispose of the case

7.14. SPAC(Suo-moto) Case No.02/2010

The Commission took Suo-moto cognizance of a New paper Report captioned "Sorbhogot Arakshir Sanmukhat Ejanar Hatya" (Asomiya Pratidin, dated 8.1.2010) and registered a case vide No, 02/2010.

The Commission obtained a report from the S.P.Barpeta on the reported incident but it was not found satisfactory. So, the S.P. was asked again to clarify some vital points and to furnish a factual report based on what happened with reference to time, space etc. with all details. But the second report of the S.P. was also not found to be convincing and thus the S.P. and the O/C Sorbhog P.S. were summoned to appear before the Commission personally.

Both the officers appeared before the Commission and they were heard individually by the Commission.

The O/C, Sorbhog P.S, SI, Ratan Bhuiyan deposed that he detailed the SI who was the third officer of the said P.S. to accompany the Nazarat officials with ¼ th strength of APBN force on deployment at the PS. He received a direction from the Police Reserve a couple of days back for detailing police personnel for the purpose but he could not show the said communication before the Commission. He was on duty with his second officer in a different location and informed the third S.I. Chandra Kanta Hazarika over phone to proceed. He came to know over phone

from the S.I. about the violent incident at the place (Bhaluki) and proceeded to the P.O. On arrival there found none except few injured persons and the dead body and the vehicle. He took action after the incident but before the derailment he did not foresee any trouble.

The S.P, Barpeta, Shri D.Mukherjee, APS, informed the Commission that there was no history of such incident in the area and hence the police did not anticipate trouble. His deposition has confirmed the contention that the incident was a big surprise to police and police was therefore not prepared to face a situation of the kind. The role of the S.P. in the entire situation was far from inspiring. He was found busy in protecting his inept and sluggish police personnel under his command. The same tale was revealed in his three reports to the Commission. He could not also show from records as to his post exercises of deterrence to such situation in the district. He has failed to apprise the Commission the provisions of law/rule in the derailment of police force on payment and the exercise as required under the Assam Police Manual and the Assam Police Act, 2007 (Sec. 26).

The Commission feels that the incident as happened with injuries, death and damages of properties in presence of police is not only reprehensible but also erodes public faith on police. Exemplary action ought to have been taken by the police department. But this burning issue appears to have been side-lined without remorse and rectification. Such cases should have drawn the sharp attention of the police department with measures to prevent misconduct on the part of the personnel charged on safety and protection.

The Commission therefore is of the opinion that the conduct of the S.P.Barpeta be further probed by the Department on the situation he handled and the measures worked out preventing further recurrence to similar incident in the District. Follow up measures taken up by the Police Headquarter be informed to the Commission as well as to the Government from time to time.

7.15. SPAC Case No. SPAC/C/05/2011

Dr. Ranjana Chetri

Vs
Dr. P.R. Das, IPS (Since Retd)

It is a lamentable tale of a working woman, a doctor by profession, who was exposed to experience a fate worse than death in her working place.

As far back as on 13th August, 1997 the Supreme Court of India while disposing of the case of Vishaka and ors vs State of Rajasthan and others reported in (1997) 6(SCC) 241 laid down the guidelines and norms specified for due observance in all work places and other institutions, until legislation is enacted for the purpose for prevention of sexual harassment to woman. The guidelines and norms prescribed by the Supreme Court of India in paragraph 17 and 18 of the guidelines are set out herein below:

“17. HAVING REGARD to the definition of “human rights” in Section 2(d) of the Protection of Human Rights Aft,1993,

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

Duty of the employer or other responsible persons in workplaces and other institutions:

It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

1. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviours (whether directly or by implication) as:

- (a) Physical contact and advances;
- (b) A demand or request for sexual favours;
- (c) Sexually coloured remarks;
- (d) Showing pornography;
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances whereunder the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

2. *Preventive steps:*

All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- (b) The rules/regulations of government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

3. *Criminal Proceedings:*

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

4. *Disciplinary action:*

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

5. *Complaint mechanism:*

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

6. *Complaints Committee:*

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a

special counsellor or other support service, including the maintenance of confidentiality.

The Complaint Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the government Department concerned of the complaints and action taken by them.

The employers and person-in-charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

7. *Workers' initiative:*

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in employer-employee meetings.

8. *Awareness:*

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

9. *Third-party harassment:*

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person-in-charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

10. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in private sector.
11. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.
12. Accordingly, we direct that the above guidelines and norms would be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These writ petitions are disposed of accordingly.”

Despite all these, it appears that such type of harassment including criminal offences on working women are allowed to take place in the establishment as will be revealed from the complaints made by a Lady Doctor, who at the relevant time was working as Medical & Health Officer-I in 2nd ASRF Bn., Karangaon, Bokajan before the Commission vide complaint dtd 8th of February, 2011. The relevant portion of her complaint is extracted below:

“That Sir, on the fateful day of 3rd Feb 2011 Dr. P.R. Das, IPS, IG, visited our MI room 2nd ASRF Bn. Karagaon, Karbi Anglong, Assam at around 11 AM for inspection to the MI room, he was telling about measurement of his blood pressure and blood sugar. So, I told him I will do the necessary testing in the MI room itself, but he insisted me to come to guest house for medical checkup and testing at 1 PM. So, accordingly, after completing my OPD duty at MI room I went to the guest house of our battalion to meet him for his testing. I went along with Mr. Dipankar Sarma, Pharmacist, MI room to guest house. So, we were sitting in drawing /sitting room and our Battalion Commandant Mr. Taramol Deka was also there in the guest house. Our IG Dr. P.R. Das, IPS came to the sitting room and I asked him to check the blood pressure in the sitting room itself, but he insisted me to come inside the room and do necessary checking so, myself and Commandant went inside the room but our IG asked Commandant to go to office and he will come after sometime. So, I was alone in the room. I checked the blood pressure and

after that, I called our pharmacist to come inside and do blood sugar testing. I was sitting in the chair inside the room. After blood sugar testing pharmacist went outside. The IG asked me to check the pulse, I told him that I have already noted the pulse, but he said without touching, how you could measure the pulse. So I did pulse checking.

In the process of pulse checking, he was telling me that he likes me so much and he touched my left hand and left cheek and giving flying kiss. His intention was bad, so I forced his hand out and left the guest house. If I have surrendered during his first move, he would have advanced further to destroy my modesty. The following points may be noted about the ill intention of Dr. P.R. Das, IG

- 1. He refused to do blood pressure checking at MI room, as there was other staff also so he called to Guest House with bad intention.*
- 2. In the guest house, I insisted to do checking at common sitting room, but there also he refused and asked me to come inside the room and do checking on the bed with lying position. It shows his bad intention.*
- 3. He insisted to do pulse checking, which was not very necessary. His intention was not good, as I have noticed his way of saying and taking with me. He asked me to do second time pulse checking with watching clock.*
- 4. In the room, our Commandant was there with me, but he asked Commandant to go to office and come at 2.30 PM for lunch. His intention was very bad so he asked him to go to make me alone for his ill motive.*

As a Doctor, our duty is to serve and save the human being not thinking of day or night, either male or female. I have been discharging my duties with all my abilities for the benefit of people not but due to his incident, my morale and enthusiasm to work has been degraded.”

The Commission called for a report from the concerned authority Vide communication No. SPAC/C/05/2011/4 dtd. 22.2.2011 the Commission called for a report from the Director General of Home

Guard and civil Defence and the SP , Karbi Anglong. The Commission however, obtained report that too after several reminders from SP, Karbi Anglong vide letter No. IV-SPAC/2011/E/3874 dtd. 08.4.2011. As per report the Commission was informed that *“on 04.02.2011 at 11:35 P.M complt. Dr. (Mrs) Ranjana Chetri Medical & Health Officer-I of 2nd ASRF Bn Hqr., Karagaon, Khatkhati, Karbi Anglong Dist. lodged a written FIR to the effect that on 03/2/2011 at about 11 A.M accused Dr. P.R. Das, IGP, DG Civil Defence and Commandant General of H.G. visited the M.I Room of 2nd ASRF Bn., Hqr, Karagaon for inspection. In the M.I. Room Dr. P.R Das, IPS asked her to check the blood pressure and sugar and accordingly Complt. Dr. (Mrs) told him that she will do the necessary checking and test in the M.I. room itself but Dr. P.R. Das asked her to come to Guest House of 2nd ASRF Bn., Khatkhati for his medical check-up and testing at 1.00 P.M. Accordingly after completion of OPD duty at M.I. room Dr. Ranjana Chetry along with Mr. Dipankar Sarmah, Pharmacist went to the Guest House and waited for Dr. P.R. Das in the sitting room where the C.O 2nd ASRF Bn Mr. Taramol Deka also waiting in the sitting room. After a while Mr. P.R Das arrived in the sitting room and the complt./Dr. Ranjana Chetry asked him to check his blood pressure in the drawing/sitting room but Dr. P.R. Das insisted her to check him in the room. Therefore, she and C.O. 2nd ASRF Bn. Shri Taramol Deka went inside the room. Dr. P.R. Das asked Shri Taramol Deka to go to his office and after some time he will join him and accordingly C.O. left the room for his office. Dr. Ranjana Chetry started checking of blood pressure of Dr. P.R. Das and after checking she called her pharmacist to do the testing of blood sugar. The pharmacist while went out of the room after doing blood sugar test Dr. P.R. Das asked Dr. Ranjana Chetry to check his pulse but Dr. Ranjana Chetry replied that she had already checked his pulse. Dr. P.R. Das asked her to check his pulse by touching him and accordingly she checked his pulse as told. While she was checking his pulse Dr. P.R. Das told the complt. that he liked her and touched her left hand and left cheek and gave her a flying kiss. The complt. immediately went out of the room. Hence the case. In this connection a case was registered at Khatkhati P.S Vide Case No. 09/11 U/S 354 IPC on 04/20/11 and investigated into.”*

The report reveals that the investigating officer visited the P.O and a sketch map was drawn and 9 (nine) witnesses examined including the complaints and recorded their statement. The statement of Dr. Ranjana Chetri was recorded U/S 164. The case has been returned in charge sheet vide C.S No. 07/11 dtd. 07/4/2011. Her statement U/S 164 not only corroborate to complaint to the SPAC and report of S.P, Karbi Anglong and further reveals commission of criminal offences u/s 342 IPC.

The Commission examined the report. The report is scanty. Facts situation indicated that the complainant was compelled to come to the Guest House for medical checking as per the bidding of the arraigned officer which could have done in MI Room itself without dislocating the working of the M.I. staff. It was not proper on the part of the IGP for insisting her to come to attend him in the Guest House dislocating the work of the Department. The report also indicated that such an officer of high status ignoring his dignity and status went to the extent of insisting the Medical Officer for routine check up in the Guest House. The officer concerned seems to have made calculated approach for having physical contact with the female Doctor driving out the other persons from the room. The alleged act and conduct amounted to assault or using criminal force towards woman intending to outrage her modesty by wrongfully confining her to satisfy his lust.

The FIR dated 4.2.11 submitted to the OC, Khatkhathi PS itself discloses offence u/s 354.read with S.342 IPC. The relevant extract of the FIR is set out herein below:

“In the process of pulse checking he was telling me that he likes me so much and he touched my left hand and left cheek and giving flying kiss. His intention was bad. So I forced his hand out and left the guest house. If I have surrendered during his first move, he would have advanced further to destroy my modesty. The following points may be noted about the ill intention of Dr. P.R. Das, IG.

- 5. He refused to do blood pressure checking at MI room, as there was other staff also so he called to Guest House with bad intention.***
- 6. In the guest house, I insisted to do checking at common sitting room, but there also he refused and asked me to come inside the room***

and do checking on the bed with lying position. It shows his bad intention.

7. He insisted to do pulse checking, which was not very necessary. His intention was not good, as I have noticed his way of saying and taking with me. He asked me to do second time pulse checking with watching clock.

8. In the room, our Commandant was there with me, but he asked Commandant to go to office and come at 2.30 PM for lunch. His intention was very bad so he asked him to go to make me alone for his ill motive.

As a Doctor, our duty is to serve and save the human being not thinking of day or night, either male or female. I have been discharging my duties with all my abilities for the benefit of people not but due to his incident, my morale and enthusiasm to work has been degraded.”

The FIR indicated that she had to forcibly release herself from his grasp and leave the Guest House. The tenor and content of the FIR read with the statement u/s 164 indicated offences u/s 354/342 of the IPC. Using criminal force in order to commit offence may be for a short duration is an offence against the State, for no one has a right to molest another in his or her free movement. In wrongful restraint there need not be any stoppage of movement, the act of the wrong doer is sufficient. To support a charge of wrongful confinement, proof of actual physical obstruction is not essential. Any offences of such nature, the emphasis is to do on the apprehension produced on the mind of the person restrained or confined. What is important here that of the domination of the will of the complainant. A person cannot be deprived of his or her liberty of locomotion as much by exercise of force or as by expression or imply threat of it. What is of importance in such case is the reasonable apprehension of force rather than rendering of the actual use of force. The person arraigned was a superior, who at the relevant time was controlling her behaviour and therefore the facts and situation unerringly also discloses offences under section 342 IPC, apart from offence u/s 354.

It may also be mentioned that ‘Molestation, rape or attempt to commit rape’ is a serious misconduct as per the explanation under Section 78(1)(d) of the Assam Police Act, 2007. Under Section 99 (B), whoever being a police officer subjects any person in her/his custody or with whom he may come into contact in the course of duty, to torture or to any kind of inhuman or unlawful personal violence or gross misbehavior,.....shall on conviction be punished with imprisonment for a term which may extend to six months or shall be liable to fine not exceeding two thousand rupees or with both. Likewise under the All India Services (conduct) Rules 1968 every member of the service, at all time is to maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the Service.

Similarly under S. 47(a) of the Act, a police officer is to uphold and enforce the law impartially and to protect life, liberty, property, human rights and dignity of the members of the public.

The allegations surfaced also points out to the effect that the officer concerned knowingly disobeyed the direction of law as to the way in which he was to conduct himself intending to cause injury to any person and therefore, liable to be prosecuted u/s 166 IPC

We have also disappointed in the conduct of the Department for not giving due importance to the case in hand. Firstly the authority miserably failed to protect its woman employee despite the positive directives of the Supreme Court enunciated in Vishaka.(Supra)

The accused in the case was in the rank of IGP of State Police. As per the law applicable in the Police Department in a case in the rank of ASI and above rank “it should invariably be regarded as special report police case” under Assam Police Manual Part II, Rule 40 with the Circle Inspector of Police to report progress of investigation of the case under rule 8 and 9 of the Assam Police Manual Part V. Interestingly the IO of the case was a mere SI. In Bokajan Sadar Sub-division is/was manned by Sub-Divisional Police Officer, Circle Inspector and OC, Khotkhathi and despite these, for reasons best known to the department it conducted investigation in this lackadaisical method, through a Sub-Inspector. Leisurely, apathetic, half hearted approach itself speaks of its

commitment towards accountability. No explanation came forth as to why the case was assigned to a junior officer. It is a heinous crime which ought to have treated as a special report case was handed over to a junior officer with oblique reason. No reasons are ascribed as to why at least an officer of the rank of IGP was not engaged in supervising the matter. The charge sheet along with the other records furnished to us also indicated that the statement made under S. 164 of the Cr.PC was not followed to the logical end. We also could not find any justification as to why he was not treated like any other accused. We could not comprehend the reason as to why the statement of accused was not recorded. In the self-statement made by the arraigned officer did not explain the reasons why he went to the MIO, how it came for his inspection. All these do not speak well of the police department in rendering fair and effective investigation. Interrogation was seemingly conducted in an indifferent fashion as if to protect a higher level officer. Registration of the case was done only u/s 354 IPC without registering the case also u/s 342 revealed the culpability of the police personnel to save the senior level IPS officer from the dragnet of law. Even the report does not reflect any thing about his arrest.

The Commission is apprised by the Government that they are even considering it appropriate to initiate DP against the officer concerned. We are yet to get the details about the DP. We hope and trust the appropriate authority will take appropriate departmental measure as per law against the concerned officer keeping in mind the serious nature of the crime allegedly committed by a senior level officer of the law enforcing agency, as well as decision of the Apex Court, as discussed by us.

The case involves alleged infraction of the fundamental right to gender equality and the right to life ad liberty – most precious fundamental rights guaranteed by the Constitution of India. Sexual harassment of a female at the work place ill matches with the dignity and honour of feminine gender that needs to be stamped out. There cannot be any half measure with such violations. All concerned owes a duty and obligation to give due regard to International Conventions as well as the domestic Courts as declared in Vishaka (Supra) and Apparel Export Promotion Council (1999) 1 SCC 759.

Needless to state that Vishaka's case (supra) was approved and followed in (1999) 1 SCC 759 Apparel Export Promotion Council Vs A.K. Chopra in and D.S.Grewal Vs Vimmi Joshi and Others (2009 2 (SCC) 210.) In Apparel Export case Hon'ble Supreme Court observed that sexual harassment is a form of sex discrimination projected through unwelcome sexual advances, request for sexual favours and other verbal or physical conduct with sexual overtones, whether directly or by implication, particularly when submission to or rejection of such a conduct by the female employee and unreasonably interfering with her work performance and had the effect of creating an intimidating or hostile working environment for her. Any action or gesture, whether directly or by implication, aims at or has the tendency to outrage the modesty of a female employee, must fall under the general concept of the definition of sexual harassment in a case involving charge of sexual harassment or attempt to sexually molest, the courts are required to examine the border probabilities of a case and not get swayed by insignificant discrepancies or narrow technicalities or the dictionary meaning of the expression "molestation". They must examine the entire material to determine the genuineness of the complaint. The statement of the victim must be appreciated in the background of the entire case. Where the evidence of the victim inspires confidence, as is the position in the instant case, the courts are obliged to rely on it. Such cases are required to be dealt with great sensitivity. Sympathy in such cases in favour of the delinquent superior officer is wholly misplaced and mercy has no relevance.

Cases of this nature ought to have been taken with utmost seriousness. The sexual harassment of a female at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated without any compromise. In the light of the Supreme Court decision the Parliament has taken up the matter- "The Protection of Woman Against Sexual Harassment Bill" was passed by the Lok Sabha recently.

In the light of discussion made above, the Commission is of the view that the concerned authority should make all endeavour to submit a supplementary charge sheet u/s 166/342 IPC read with section 99 (5) of

Assam Police Act against the accused person, in addition to the charge sheet submitted u/s 354 of the IPC.

The commission accordingly directs the concerned authority to take appropriate measure as per law.

In the set of circumstances the concerned authority is given an opportunity to present department's view and addition to fact if any not already in the notice of the Commission before finalizing its view.

7.16. SPAC CASE NO. 29/2011

Shri Dilip Kr. Dutta
-Vs-
OC, Dhaniram Bordoloi,
Halwating P.S Dist.- Sivasagar

This proceeding is initiated at the instance of a complaint dated 18th July, 2011 submitted by Shri Dilip Kr. Dutta of Namtidole Bailung Gaon, Police Station Halwating, Dist.- Sivasagar. The complaint pertains to dereliction of duty of a police officer in not registering FIR as required under Section 154 of the Cr.PC. the Commission called for a detailed report from the Superintendent of Police, Sivasagar. The Commission also summoned the S.P, Sivasagar and heard him in person. The Commission also examined the police records those are relating to GDE sent to the Commission vide memo No.- SVR/11/SPAC/3196, dated 3rd August/11.

On perusal of the records including the statement of the S.P the following aspects came to the fore. The SP has made all the effort to dilute/deflate he serious misconduct of the concerned OC for not registering the case. Though in his statement before the Commission he admitted that the SI concerned by not registering the case committed dereliction of duty. The concerned SP has failed in his duty to imbibe upon his subordinate the sense of professionalism in handling issues of public importance.

Admittedly the FIR disclosed cognizable offence U/S 154 Cr.PC read with the letter and spirit of the Assam Police Act which is a statutory duty of OC to register FIR as required U/S 154 Cr.PC and failure to register the said FIR is dereliction of duty U/C 98 of the Assam Police Act, 2007.

The Commission considers it appropriate to direct the SP to initiate departmental proceedings against the concerned OC on account of his failure to register the FIR as required under Section 154 Cr.PC, it has not already initiated. The Commission also expects from all concerned to take appropriate measure to converse the SP concerned with the law of the land, more particularly the provisions of the Assam Police Act, 2007 and procedure in order to cater to the need of people impartially and with unbiased administration.

8. Number and type of cases in which the Commission tendered advice or direct to police for further action.

9. **Complaint to the District Accountability Authority**

District Accountability Authorities have not been set up and therefore the number of complaints received and dealt with by the District Accountability Authority does not arise during the year of report.

10. The identifiable pattern of police misconduct in Assam in a broader spectrum has been discerning in the cases discussed as reported and disposed during 2011. However, the pattern of police misconduct as defined in Section 78 of Assam Police Act, 2007 and as could be identifiable is as fazed on the complaints and disposal, broadly relate to

- (a) Police inaction in the investigation of cases ;
- (b) Refusal to receive complaints;
- (c) Verbal complaints not acted upon;
- (d) Arrogance and rude behaviour;
- (e) Bribe demand;
- (f) Avoidance to issue arrest memo, Medical exam;
- (g) Inaction leading to retaliating offence;

- (h) Prompt arrest in counter cases;
- (i) Enquiry in lieu of investigation.

10. Recommendation on measures to enhance police accountability:

- (a) Orientation course on Assam Police Act, 2007 with special emphasis on accountability, transparency and Human Rights to be organised at the District, Range and the Police Headquarters level
- (b) The State Chief of Police is needed to forthwith formulate accountability parameters of various ranks;
- (c) Assam Police Act, 2007, Prevention of Corruption Act, 1988 and Assam Civil Service Conduct Rule 1965 should be taught in the basic and promotional courses for the direct entry officer at the training college, institutes and the training, slots should occupy and equal emphasis alike the CrPC, IPC. Evidence Act and the Police Manuals.
- (d) Counter cases and cases concerned in the complaints (Sec. 78, 88 of the Assam Police Act, 2007) should be supervised in the same manner as followed in Special Report cases.
- (e) Provide the Accountability Commission with power to investigate and prosecute with necessary investigators drawn from Police Department.
- (f) Complaints/ allegations against police officer on the serious misconduct should be forwarded to the Commission by the Departmental authorities and the Govt. as well with action taken report.
- (g) District Complaint Authorities to be set up.
- (h) Police Department should circulate the directions/observations of the Commission case to case basis to the cutting edge level investigating staff of the Police Department and publish hand outs of the briefs for better comprehension and understanding of the direction/observations.

- (i) Suitable compensations, service condition including promotion prospects, welfare measures and workload in investigation of cases, to be restructured so as to enhance the accountability and belongingness of the police personnel. Posting tenure should also be ensured in a scale determined on job basis.

10.1. Action on the recommendations by the Commission:

The Commission set forth several important recommendations in matters of enhancing police accountability in the reports already brought out. These recommendations have yet to see the light. The dynamics of the thoughts and aspirations behind the recommended action ought to have been grasped the stakeholders. But absence/ inaction is aggravating the generic change in the system.

These were important- yet we are to be made aware as to whether these recommendations were acted upon. It is a continuous process- If such recommendations are not implemented it will be difficult to attain the vision of better policing.

Few such recommendations are reproduced in the interest of the subject matter:

10.2 ANNUAL REPORT 2008:

- i. It is imperative that the State Chief of Police formulates **accountability Parameters** of various ranks including supervisory responsibility of senior ranks of and above the rank of Superintendent of Police. A thorough enforcement of accountability at all levels in the police hierarchy is therefore called for.
- ii. The police should change their hackneyed mindset and work overtime to effect a perceptual change in their image from an instrument of coercion to a people- friendly force who are as much a part of society as any other law-abiding citizen. The police must wear a human face if they honestly mean to endear themselves and thereby win the confidence, faith and trust of the public.

- iii. It is essential that the police recognize and respect the limitations of their powers and functions and not endeavour to usurp or even seem to usurp the functions of the judiciary and sit in judgment on cases. Nor are they expected to avenge individuals and punish the guilty.
- iv. In securing the observance of law or in maintaining order, the police are expected to use methods of persuasion, advice and warning. Should these fail and the application of force becomes inevitable, only the absolute minimum required in the circumstances should be used.
- v. Integrity of the highest order is the fundamental basis of the prestige of the police; recognizing this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed in both personal and official life.
- vi. The police service is a disciplined body. Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and abide by the provisions of legislation applicable to the police. Officers should support their colleagues in the execution of their lawful duties and oppose any improper behaviour, reporting it where appropriate.
- vii. Transparency at all levels of police functioning is called for. In cases of custody by police the presence of relatives is desirable so as to rule out application of third degree methods. To deal with the increasing cases of escape from police custody, stringent measures are called for to make the police officers accountable for such lapses.
- viii. The public expresses rather low tolerance for police misconduct, particularly the unnecessary use of force and the use of abusive language. The claim that Police Officers should toe the line and perform their jobs within circumscribed fair processes suggests that the public expects officers to behave like professionals. In the

popular sense of the term police professionalism translates into an expectation that officers will perform their duties within a set of fair, public and accountable guidelines.

- ix. The formation of Oversight Committees comprising police officials, representatives of Citizen's Liaison Groups and Nagarik Committees etc. to closely monitor the functioning of the police in their respective jurisdictions, has been tried out in other States with great success and can be used to good effect in Assam to ensure police accountability to the community they are expected to serve.

Increased accountability will result in enhanced efficiency and a higher rate of conviction, sending the right signals to criminals. This will make an appreciable difference to the maintenance of law and order for the better. Since the peoples elementary expectation is security to life and property, improved law and order is the basic priority.

- x. To achieve true accountability to the community, the police and the community must define police services and the level at which the services are provided. They must also identify measures of success for those services as viewed by their local communities and finally, the police must be open to being held accountable by the community for the measures of success agreed upon. Such an open dialogue between the police and community will help gain the trust and confidence of all stakeholders, police and citizens alike.
- xi. As a long term measure, the Commission is of the view that since its primary mandate under the Police Act, 2007, is to ensure accountability of the State Police Department in every sphere of its functioning, not the least of which is the prevention and detection of crime, Govt. may perhaps consider bringing in necessary amendments of the relevant provisions of the Assam Police Act, 2007, in order to invest the Commission with greater regulatory and supervisory powers with regard to the conduct of criminal cases by the police in the matter of registration,

subsequent investigation and submission of Final Form. This, the Commission feels, will serve to give more teeth to the Commission by significantly enhancing its supervisory role and thereby ensuring greater accountability on the part of the State Police to the community whom they are mandated to serve.

In this connection, the Commission would like to express its serious concern at the tardy progress of investigation of important cases pending with the various Police Stations across the State. For various reasons, the investigation of cases is being accorded low priority, be it because of preoccupation with law and order duties, VIP security or operations against extremists, as a result of which the following attendant problems having a direct bearing on the above spheres of police activity arise:

- xii.i. Arrested criminals get bail due to case diaries either not being written in time or not having enough credible evidence against the accused.
- xii.ii. Initial defects in the case diaries, like improper seizure, required materials not being seized, names of witnesses not being properly recorded etc, adversely affect the cases in question and leads to submission of final report or even subsequent acquittal by the court, thereby enabling the involved criminals to carry on their nefarious activities with impunity.

The Commission therefore is of the view that crime investigation should be accorded top priority in the overall scheme of things and towards this end , a separate set of highly trained Police Officers who will be able to pay exclusive attention to the investigation of cases should be made available in the Police Stations. The National Police Commission's recommendations in this regard are very clear as well as pragmatic and need to be implemented by the State Govt. in right earnest.

The Commission is also of the opinion that many of the reasons for delayed or tardy progress of investigation of criminal cases by the police reflect poor or inadequate training of the Investigation

Officers working in the field. This aspect, the Commission feels needs to be addressed urgently by the Senior Police leadership as well as by the State Govt. so that there is a conscious effort to impart, improve and increase the required knowledge and skills and to develop attitudes and values of the individual policeman in the desired direction.

10.3. ANNUAL REPORT 2009:

13. General Diary:-

Rule 53 of the Assam Police Manual (Part-V) indicates that the Section 44 of the repealed Indian Police Act (Act V of 1861) provides for the General or Station Diary (Form No.135 of Schedule XL (A) Part I.) to be maintained by all P.S./ OP / beat house and “ the Officer-in-Charge is responsible that it should be punctually and correctly written”. The equivalent provision is not made in the Assam Police Act. 2007. A like provision should be incorporated in the Act, to ensure accountability and transparency of Police work at the P.S/O.P. level.

As the General .Diary is an important instrument of transparency and accountability, it should be written as prescribed by the manual and any deviation thereof should attract penal action under the Assam Police Act 2007 and the present practice of using wood pencil in writing the G.D. in some of the P.Ss./O.Ps. need to be replaced by use of ball point pen. The name/names and particulars of the arrested persons during 24 hours proceeding to the opening of the Dairy at 8 A.M. needed to be entered.

14. Supervision of cases, progress reports etc. :

The Commission has viewed with concern, the delay in investigation of cases. The Special report cases are unduly kept pending without reviewing progress of investigation. Progress reports are seen more of a routine nature than discussing the investigation whether it is on the right track and the evidences are collected for a logical conclusion of the case. Suggestion by

supervising officers without discussing the merit and demerit of the evidences are observed in a couple of cases where penal sections for lowering punishment are suggested. Such action is fraught with grave allegations against police of minimizing offences.

Hence the Progress Report as prescribed in APM, Rule 8,9 of Part-V should be submitted without delay after supervision of such cases by the Sr. officers including the Circle Inspector of Police. The power and function of Circle Inspector of Police as an important organ of Police Investigation should therefore be redefined in view of the present state of affairs in the investigation and crime prevention mechanism to strengthen people's confidence on Police.

15. A Compendium of selected Police circulars quoting rules and manuals on common Errors/ Aberrations having bearing on the clause 78 of the Assam Police Act. 2007.
16. Role of Supervisory Police officers needs be redefined from accountability point of view by unambiguously assigning them with the charter of duties and responsibilities so that they act to prevent the misconduct of the field level Police engaged in investigation and preventive actions. One Addl. S.P. and the Circle Inspectors in a district should be specifically entrusted for monitoring and supervising works of the field level officers relating to issues primarily on para 1 above and brought out quarterly publications of crime records of the respective districts.
17. A state level crime and investigative audit to be published annually compiling the district level publications highlighting the best practices.
18. Objective assessment of performance of officers in the investigation and supervision to place them in P.S/Circle level postings. Similar practice should also apply in the posting of Addl. S.P. (Investigation) in districts.

19. All cases having bearing on the clause/ Section 78 of the Assam Police Act,2007 should be treated as special report cases receiving due attention at the district level crime conferences besides cases registered at the instance of the State Police Accountability Commission

10.4. ANNUAL REPORT 2010:

20. GENERAL DIARY

It has been observed that the Assam Police Act, 2007 has not been amended in order to make the General Diary a legal instrument with its transparency in the level of Thana/Outpost activities which is overdue. The scope of enhancing police accountability is very wide in the General Diary to be maintained having the force compatible with that of the RTI Act.

The General Diary in respect of information of non-cog nature under the provision of Cr.P.C. 155 is one of the important indices of police performance in Thana/OP level. The Commission has observed that many of the complaints received by the Commission relate to non-registration of cases and refusal in the guise of non-cog to police. Hardly the police action is supported by the initial records as may be required under the provision of Cr. P.C. 155 to find mention in the General Diary with advice to the complainant to approach the nearest judicial magistrate for ordering investigation of the non-cog cases by police. Such entries not only be maintained but copies to be specifically routed to the Commission through the Superintendent of Police of the district concerned.

21. COMPUTERISATION OF THANA WORKS

It is needless to emphasize that the right of the citizens will be better addressed by receiving First Information Report in the computer through networking having access to the general public. The sooner the better in the execution of the computerization as a strongest tool for transparency of accountability of police to the law.

22. SUPERVISION OF CASES

The cases registered against the police personnel are invariably to be supervised and the cases should be dealt with newer provision in the Rule Book to be amended on a greater priority putting them even as special report cases. The Government therefore should take suitable action in this regard and direct the Director General of Police, Assam to initiate proposal to the Government accordingly. All reports relating to supervision and conclusion of the investigation of such cases need to be furnished to the Commission for over view from time to time. Also this category of cases should receive attention of the crime review Committees in the district, Ranges and the State Hq of the Police Department.

23. Interface of investigating agency of Police with the Commission; training on test cases for better understanding of accountability:-

Our earlier recommendations appear not receiving due response. The same has been reproduced in this report also.

The Commission has come across complaints of perfunctory investigation of cases. The Assam Police Manual (Part-V) has dealt with a wide range of rules/procedures relating to the investigation of cases, which the investigating officers are to follow in order to obviate allegation of mechanical investigation and to prevent crimes. A common practice, as observed, is that Police resorts to enquiry without either registering a case or refusing to register a case in the nature of preliminary enquiry. Criminal procedure codes 154, 157 are explicit in this matter. Assam Police Manual rule 110 (Pt. V.) prescribes a laid down procedure for drawing FIR. The deviation from the codes and rules degenerates in to slip-shod actions by the Police.

The Commission feels that a special interactional training course of the O/Cs of Police stations and the Circle Inspectors with the Commission in the light of the SPAC test cases (as conducted by the Commission) can be organized at the Commission H.Q. in phased manner.

Necessary infrastructural facilities for holding the interactive training courses need to be provided to the Commission.

24. **INTERACTION WITH PEOPLE AND POLICE:**

Regional Seminar was held at Sivasagar during September, 2011. The Commission has received whole hearted response from the judiciary and local legal fraternity and also the concerned senior citizens and the press in matters of police accountability to be carried to the common man. It seems that the response from police is lukewarm and words were heard dispelling wrong signal to the policemen at the grass-root level that Accountability Commission is a forum working against the interest of the police. This misgivings need to be dispelled by the police and in view of that the Assam Police Act, 2007 should be widely circulated among the policemen as this piece of statute has empowered police for exercising their authority for welfare of the people in maintaining peace and order.

Corruption is very often complained of vitiating police action making police accountable to law. The Maharashtra and Tripura State Police Complaint authorities have been mandated to look into complaint of corruption by police. All cases of misconduct which includes act of corruption/corrupt practices are also within the look out of the police complaint authorities of several States including Kerala.

It is therefore recommended that complaints of corruption/corrupt practices need to be specifically included in the provision u/s 78(1) of the Assam Police Act, 2007 to avoid misgivings.

25. **Monitoring of Departmental Proceedings**

The Commission's efforts to monitor in-house complaint tackling mechanism by the police department, with the avowed aim of ensuring and enhancing accountability more particularly at senior echelons of police hierarchy, unfortunately, have not borne much fruit so far in spite of lot of efforts on its part. There is no gainsaying the fact that police officials at higher levels wield enormous powers and therefore they are required to pass a much stricter test of accountability in cases they are alleged to have committed any misdemeanour/ misconduct. It cannot be

any body's case that no complaints against senior police officers are received in the State Police Hqrs. However, this Commission has, so far, been kept in the dark regarding the fate of such complaints as no information on the Departmental Inquiries and Departmental Actions is forthcoming from the Director General of Police, Assam, even though the Commission is mandated with duties to ensure and enhance accountability as per Section 78 (3) of the Police Act, 2007.

No valid and reasonable explanation is coming forth from the Director General of Police, Assam for non-submission of Quarterly Return in respect of Departmental Inquiries and Departmental Actions on the complaints of **misconduct** against Gazetted Officer of and above the rank of Deputy/ Assistant Superintendent of Police. The underlying cause to keep such information under wrap as far as possible may conjure a vision of negativity militating against the principle of accountability. Secrecy where not required and is not desirable is bound to raise suspicion and any principle of Good Governance should do better to shy away from. Disciplinary Control would always be vital, pivotal and essential mechanism to ensure accountability. There shall always have a section of personnel who would perform rashly, irresponsibly, imprudently or incompetently. Owing to the fact that the stakes are exceedingly high in policing, the message must reach the police personnel at all levels that amateurish and incompetent performance will not be countenanced e.g. indulgence in corruption and brutality, unprofessionalism, etc. would not be endured. If overseeing, superintending and auditing are well conducted and properly documented, discipline can be fairly accomplished. The accountability of individual police officer is a fundamental issue of good governance.

26. **RECRUITMENT AND TRAINING**

The Commission observed that the public complaints to police and investigation to these complaints are not to the satisfaction of the people and at times it is attracting counter complaints to the harassment of the complainants. Certain factors are responsible for such dismal work. One of the factors as could be observed is the corrupt practices which vitiate the spirit of investigation and redressal to the complaints. The separation of investigation with a new brand of investigators recruited on the same fashion as adopted by the various management groups by hunting talents

in the local job market and offering them the same compensation as offered in the job market may be a better option.. The suggestion has stemmed from the modern management concept for catering best service delivery system. The young upright persons' entry into the job would call for maintaining police performance in the field of investigation using I.T. as a tool at the international level particularly in view of the information technology as proliferated on all walks of life and the cyber crime has assumed a bigger challenge. Their nomenclatures should also be changed from the proto type police ranks to Police Investigators identifying grades of seniority – such as Investigator Grade I, II, III and Chief Investigator.

Similarly, the training should be oriented to address public complaints and meeting the requirements of legality and transparent procedure. Issues are not difficult at all. The new Manual as may be prepared under the Assam Police Act, 2007 should impress rules and procedures in a very simple manner, of course with impeccable accountability indicators. The computerization if implemented should also cater to the needs of the complainant and if implemented the training methodology in the investigation of cases should get revised and the monotony of the initial courses of law and procedure in the college and schools under the police training management should be replaced with vibrant course materials and methodology.

27. **FIRST INFORMATION REPORT**

The Information Report commonly known as First Information Report is an important mechanism of the criminal justice machinery. Under Section 154 of the Criminal Procedure Code every information relating to commission of the cognizable offence if given orally to an officer-in-charge of a police station shall be reduced to writing by him or under his direction or be read over to the informant; and every such information whether given in writing or reduced to writing shall be signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer in such form as the State government may prescribe in this behalf. A copy of the information as recorded under sub-section (1) shall be given forthwith free of cost, to the informant.

An FIR given to the officer –in-charge relating to commission of cognizable offence cannot be refused on extraneous. If an FIR relating to Commission of cognizable offence is given to an officer-in-charge of the Police Station, the officer-in-charge is obliged to enter it in the prescribed form, register it, and investigate the case. The officer-in-charge is duty bound to register such FIR forthwith. Non-registration of FIR by the officer-in-charge of a Police Station amounts to dereliction of duty. No. Registration of an FIR is a serious misconduct under the explanation of Section 78(1) of the Assam Police Act, 2007.

Police cannot start enquiry or investigation without registering a case. The police is duty bound to register the case if the FIR discloses cognizable offence. Genuineness or credibility of the complainant is not to be looked into. Genuineness or credibility of information is not a condition precedent to the registration of a case. Where the FIR discloses a cognizable offence, Police Officer is bound to register it. He cannot stave off or hold off and instead start enquiry or investigation before registration. He is to first register the case and only thereafter he is to investigate the matter in accordance with law. The informer who lodges the FIR with the police does not fade away with lodging of the FIR. He is vitally interested as to what action is taken by the police on receipt of the FIR as well as in subsequent proceeding to ascertain if any offence has been committed and if so what action should be taken against the offender. The Code therefore, lays down several provisions to keep him informed at various stages:

- (i) As soon as the FIR is lodged, the informer is entitled to get a copy of the FIR free of cost (Section 154 (2) of Cr. P.C.
- (ii) If the officer-in-charge of the Police Station on receipt of the FIR decides not to investigate the case because it appears to him that there is no sufficient ground for entering for an investigation, the officer-in-charge must notify to the informant that he would not investigate the case [Section 157 (2)] of Cr. P.C.
- (iii) After the investigation is complete the officer-in-charge shall forward to the Magistrate his report. At this stage he must

communicate the informant the action taken by him – [Section 173 (2(ii)] which means copy of the report made under the report 173 (2) (i) must be supplied to the informant.

The note mentioned above, had to be included also in our report since as in a number of cases police falter in adhering to the mandate of the law and thereby impede the cause of justice.

Tail Piece

Accountability or status quo – a dilemma

Indian Police Act, 1861 has been repealed. The Assam Police Act, 2007 has taken its place in matters of police in the state of Assam. Police is a state subject under our constitution. The police force of a state is under the exclusive Jurisdiction of the state. The state police Act governs the Police Force raised, maintained for the services of the state ruled by a Govt. elected by the people, for the people and of the people.

The new Act is significant in many ways. The one which draws a veritable line of departure from the erstwhile Indian Police Act, 1861 is the issue of accountability, accountability relating to the aberrations of the police. The logic is very simple. People elect their representatives who make law. Police as an important organ in enforcing the law for the safety, security, dignity, life and liberty of people is made accountable to the law they enforce.

The departmental mechanism to ensure certain degree of accountability has fast losing its efficacy in the recent time. Time stands now as a yardstick of reckoning police officers. So and so officer of which batch, which time? Sixties, Seventies or Eighties? Many senior IPS officers seem wary of the latest dose of reform. Needless to state the police mechanism is for good Governance, prevention and detention of Crime. When the police itself faltered, the State has to intervene by way of legislative measure to prevent criminality of the police in crimes like black mailing and extortion. This fact itself has enhanced the responsibility and accountability of the police.

The change is beyond comprehension to a vast majority of the Police Force, their conduct, practice and the mindset hitherto in the currency of enforcing has not under-gone change; rather appears invasive, non cordial, accustomed to the diehard colonial mindset even when the country has become free sixty years ago from the colonial rule.

The oversight body for police accountability in a permanent footing came as a knee jerk and anxiety to the police personnel. Many

Commissions, so far setup on specific task in a time frame have not made police much alacrity and responsive.

Evasiveness, pussy footing and side stepping of the the directions of the Commission have become evident thereby defeating the intended police reform. The issue of accountability seems raised at various levels when performance level of police service in the augmentation of law and order, internal security, increasing challenge faced in the control of crime and criminality.

When the police conform to law, then only it will command respect from the community and that will only help in enforcement of the law. By setting an example of lawful conduct they will reach the people and obtain their esteem. Success of democracy will be measured in the yardstick of Accountability.

The Commission is, however, hopeful of police Accountability having seen the free and open interaction with the Commission by the field level police functionaries who are seemingly amenable to reform.

Should the Government allow it to be hijacked with the result that the reform is derailed and go haywire? Or be committed to the reform in addressing the perils to create a new order in the Governance and the society?

Sd/-
CHAIRMAN

Sd/-
MEMBER

Sd/-
MEMBER